FEDERAL REGISTER

VOLUME 24 NUMBER 138

Washington, Thursday, July 16, 1959

Title 3—THE PRESIDENT

Proclamation 3302

WORLD SCIENCE-PAN PACIFIC EXPOSITION (CENTURY 21 EXPOSITION)

By the President of the United States of America

A Proclamation

WHEREAS the World Science-Pan Pacific Exposition (Century 21 Exposition), to be held at Seattle, Washington, from May 1961 to October 1962, will commemorate the centennial of the physical fixing of the boundary line between the United States of America and Canada; and

WHEREAS the Exposition will also depict the role of science in modern civilization and will exhibit the varied cultures of the countries bordering the Pacific Ocean; and

WHEREAS the Congress, by an act approved September 2, 1958 (72 Stat. 1703), has authorized the President, by proclamation or in such manner as he may deem proper, to invite the several States of the Union and foreign countries to take part in the Exposition; and

WHEREAS such participation by the several States and foreign countries will contribute to the welfare of all participants by promoting domestic and international commerce and furthering understanding among peoples through the interchange of scientific and cultural knowledge; and

WHEREAS the Governor of the State of Washington will invite the several States of the Union to take part in the Exposition:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby authorize and direct the Secretary of State to invite, on my behalf, such foreign countries as he may consider appropriate to take part in the World Science-Pan Pacific Exposition: *Provided*, that no Communist *de facto* government holding any people of the Pacific Rim in subjugation shall be invited to participate.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this tenth day of July in the year of our Lord nineteen hundred and fifty-nine, and of the Independence of the United States of America the one hundred and eighty-fourth.

[SEAL]

DWIGHT D. EISENHOWER

By the President:

DOUGLAS DILLON,
Acting Secretary of State.

[F.R. Doc. 59-5897; Filed, July 14, 1959; 4:31 p.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 9—COLOR CERTIFICATION

FD&C Red No. 1

A notice of proposed rule making was published in the FEDERAL REGISTER of May 27, 1959 (24 F.R. 4264), setting forth a proposal made by the Certified Color Industry Committee, through its Chairman, Mr. Arthur T. Schramm, National Aniline Division, Allied Chemical Corporation, 40 Rector Street, New York 6, New York, to amend the color-certification regulations by removing the specifications for FD&C Red No. 1 and substituting therefor the specifications given below. No objections to the proposed amendment were filed within the time specified in the notice.

Therefore, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 406, 504, 604, 701; 52 Stat. 1049, 1052, 1055, as amended 70 Stat. 919; 21 U.S.C. 346, 354, 364, 371), and delegated to the Commissioner of Food and Drugs (22 F.R. 1045; 23 F.R. 9500): *It is ordered*, That the color-certification regulations (21 CFR 9.60 (24 F.R. 3851)) be amended by changing § 9.60 to read as follows:

(Continued on next page)

CONTENTS

THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Office of the Federal Register, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., ch, 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D.C.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15.00 per year, payable in advance. The charge for individual copies (minimum 15 cents) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D.C.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended August 5, 1953. The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of books and pocket supplements vary.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER, or the CODE OF FEDERAL REGULATIONS.

CONTENTS—Continued

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

A Cumulative Codification Guide covering the current month appears at the end of each issue beginning with the second issue of the month.

CODIFICATION GUIDE—Con.

§ 9.60 FD&C Red No. 1

Disodium salts of a mixture of 1-alkylphenylazo-2-naphthol-3,6-disulfonic acids, of which the mixture of amines obtained by reduction of the dye shall have the following composition:

1-Amino-2,4,5-trimethylbenzene, not less than 35 percent and not more than 45 percent.

1-Amino-2,4-dimethylbenzene, not less than 30 percent and not more than 40 percent.

1-Amino-2,5-dimethylbenzene, not less than 10 percent and not more than 20 percent.

1-Amino-2,6-dimethylbenzene, not less than 4 percent and not more than 12 percent.

1-Amino-2-ethylbenzene and 1-amino-4-ethylbenzene, total not more than 5 percent.

1-Amino-2,3-dimethylbenzene and 1-amino-3,4-dimethylbenzene, total not more than 4 percent.

1 - Amino-2,3,4,6-tetramethylbenzene, not more than 3 percent.

1-Amino-2,4,6-trimethylbenzene and amino-methylethylbenzenes, total not more than 0.4 percent.

Aniline, toluidines, and 1-amino-2,3,4-trimethylbenzene, not more than 1 percent of any individual amine and not more than 1.5 percent total of such amines.

Volatile matter (at 135° C.), not more than 10.0 percent.

Water-insoluble matter, not more than 0.5 percent.

Ether extracts, not more than 0.2 percent.

Uncombined intermediates, not more than 0.2 percent.

Chlorides and sulfates of sodium, not more than 6.0 percent.

Mixed oxides, not more than 1.0 percent.

Lower sulfonated dyes, not more than 2.0 percent.

Pure dye, not less than 85.0 percent.

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, shall specify with particularity the provisions of the order deemed objectionable and the grounds for the objections, and shall request a public hearing upon the objections. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall become effective 90 days from the date of its publication in the FEDERAL REGISTER, except as to any provision that may be stayed by the filing of objections thereto. Notice of the filing of objections, or lack thereof, will be announced by publication in the FEDERAL REGISTER.

(Sec. 701, 52 Stat. 1055, as amended 70 Stat. 719, 72 Stat. 948; 21 U.S.C. 371. Interprets or applies secs. 406(b), 504, 604, 52 Stat. 1046, 1052; 21 U.S.C. 346(b), 354, 364)

Dated: July 10, 1959.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 59-5860; Filed, July 15, 1959; 8:47 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER E—ALCOHOL, TOBACCO, AND OTHER EXCISE TAXES

[T.D. 6397]

PART 195—PRODUCTION OF VINEGAR BY THE VAPORIZING PROCESS

Miscellaneous Amendments

On June 11, 1959, a notice of proposed rule making with respect to the amendment of 26 CFR Part 195 was published in the FEDERAL REGISTER (24 F.R. 4735). No objections to the proposed amendments having been received within the 15-day period prescribed in the notice, the regulations as so published are hereby adopted.

Because this Treasury decision implements changes made in chapter 51 of the Internal Revenue Code of 1954 by the Excise Tax Technical Changes Act of 1958 (Public Law 85-859, 72 Stat. 1275) which are effective July 1, 1959, and in order that these regulations may become effective on the same date as the changes in law, it is hereby found that it is impracticable and contrary to the public interest to issue this Treasury decision subject to the effective date limitation of section 4(c) of the Administrative Procedure Act, approved June 11, 1946. Accordingly, this Treasury decision shall become effective July 1, 1959.

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: July 10, 1959.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

In order to implement the applicable provisions of the Internal Revenue Code of 1954, as amended by the Excise Tax Technical Changes Act of 1958 (72 Stat. 1275), relating to the production of vinegar by the vaporizing process, and for other purposes, 26 CFR Part 195 is amended as follows:

PARAGRAPH 1. Section 195.14 is amended as follows:

§ 195.14 Distilled spirits.

"Distilled spirits" shall mean the substance known as ethyl alcohol, ethanol, spirits, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, and includes low wines produced by the vaporizing process in the manufacture of vinegar.

§ 195.22 [Amendment]

PAR. 2. Section 195.22 is amended by deleting the period immediately following "1954" and adding ", as amended."

PAR. 3. Section 195.28 is amended to read as follows:

§ 195.28 Vinegar plant or vinegar factory

"Vinegar plant" or "vinegar factory" shall mean an establishment qualified under this part for the manufacture of vinegar by the vaporizing process.

PAR. 4. Section 195.35 is amended to read as follows:

§ 195.35 Restrictions.

Vinegar plants producing vinegar by the vaporizing process may not be established in any dwelling house, or in any shed, yard, or enclosure connected with any dwelling house, or on board any vessel, or boat, or on premises where beer or wine is produced, or where liquors of any description are retailed, or where any other business is carried on: *Provided,* That the assistant regional commissioner may, upon application to him in each case, authorize the proprietor to use the equipment of his vinegar plant for the production of vinegar from cider, or from sour wine or vinegar stock, or by the use of specially denatured alcohol, where such alternate production of vinegar is kept separate from the production of vinegar by the vaporizing process of such production will not jeopardize the revenue or unduly increase administrative supervision.

(72 Stat. 1391; 26 U.S.C. 5505)

§ 195.50 [Amendment]

PAR. 5. Section 195.50 is amended—

(A) By deleting the word "factory" immediately following the phrase "of the vinegar" and inserting in lieu thereof the word "plant".

(B) By deleting the word "Factory" in the quotation "Vinegar Factory No. ——," and inserting in lieu thereof the word "Plant".

(C) By striking the period at the end of the section and inserting a colon in lieu thereof and then add the following: "*Provided,* That where the plant designation as a 'Vinegar Factory' has obtained commercial and public significance, such identity may be retained."

§ 195.60 [Deletion]

PAR. 6. Section 195.60 is revoked.

PAR. 7. Section 195.75 is amended to read as follows:

§ 195.75 Application, Form 27-F.

Every person before commencing or continuing the business of a manufacturer of vinegar by the vaporizing process shall file application on Form 27-F, in triplicate, with the assistant regional commissioner of the region in which his premises are located, for registration of his premises and receive permission to operate. No application required by this section shall be approved until the applicant has complied with all requirements of law and this part in relation to such business. Except as provided in § 195.80, in the case of amended or supplemental applications, all information required by this part, and by the instructions on the form or issued in respect thereto, shall be furnished. Form 27-F shall be verified by a written declaration that it is made under the penalties of perjury. Form 27-F must be numbered serially, commencing with "1" and continuing in numerical sequence for all subsequent applications whether amended or supplemental. The initial application, Form 27-F, when approved and returned to the applicant, shall constitute permission to operate.

(72 Stat. 1390; 26 U.S.C. 5502)

§ 195.76 [Amendment]

PAR. 8. Section 195.76 is amended—

(A) By deleting "notice," immediately preceding "Form 27-F" and the comma immediately following "Form 27-F".

(B) By deleting the word "factory" and inserting in lieu thereof the word "plant".

§ 195.80 [Amendment]

PAR. 9. Section 195.80 is amended—

(A) By deleting the word "notices" as it appears in the section title and in the first and second sentences and inserting in lieu thereof the word "applications"

(B) By deleting the word "notice" each time it appears in the second sentence and inserting in lieu thereof the word "application".

§ 195.81 [Amendment]

PAR. 10. Section 195.81 is amended by deleting the phrase "notice on" from the first sentence.

§ 195.82 [Amendment]

PAR. 11. Section 195.82 is amended by deleting "notice", immediately preceding "Form 27-F" at the close of the section.

§ 195.83 [Amendment]

PAR. 12. Section 195.83 is amended by deleting the word "notice" each time it appears in the first sentence and substituting in lieu thereof the word "application".

§ 195.87 [Amendment]

PAR. 13. Section 195.87 is amended by deleting "notice", immediately preceding "Form 27–F" and the comma immediately following "Form 27–F".

§ 195.97 [Amendment]

PAR. 14. Section 195.97 is amended by deleting "notice", immediately preceding "Form 27–F" at the end of the second sentence.

§ 195.98 [Amendment]

PAR. 15. Section 195.98 is amended by deleting from the first sentence the phrase "distillery, internal revenue bonded warehouse, industrial alcohol plant, industrial alcohol bonded warehouse or denaturing plant, rectifying plant, or taxpaid bottling house" and inserting in lieu thereof the phrase "distilled spirits plant."

§ 195.111 [Amendment]

PAR. 16. Section 195.111 is amended by deleting the word "notice" in the title thereof and each time it appears in the section and inserting in lieu thereof the word "application".

§ 195.116 [Amendment]

PAR. 17. Section 195.116 is amended by changing the title thereof to read "Permanent discontinuance."

§ 195.131 [Amendment]

PAR. 18. Section 195.131 is amended by deleting "notice", immediately preceding "Form 27–F,".

§ 195.132 [Amendment]

PAR. 19. Section 195.132 is amended by deleting the word "notice" each time it appears in the third and fourth sentences and inserting in lieu thereof the word "application".

§ 195.140 [Amendment]

PAR. 20. Section 195.140 is amended by deleting the word "notices" and inserting in lieu thereof the word "applications".

§ 195.142 [Amendment]

PAR. 21. Section 195.142 is amended by deleting the word "notice" each time it appears in the first sentence and inserting in lieu thereof the word "application".

§ 195.143 [Amendment]

PAR. 22. Section 195.143 is amended by deleting the word "notice" each time it appears and inserting in lieu thereof the word "application".

§ 195.150 [Amendment]

PAR. 23. Section 195.150 is amended—

(A) By deleting "notice", immediately preceding "Form 27–F".

(B) By deleting the period at the end of the section and adding the following: "and permission to operate has been received".

PAR. 24. Section 195.165 is amended to read as follows:

§ 195.165 Taxes must be paid on distilled spirits illegally produced or removed.

The internal revenue taxes must be paid on any distilled spirits produced in or removed from the premises of a vinegar plant in violation of law or this part.

(72 Stat. 1391; 26 U.S.C. 5505)

PAR. 25. Section 195.166 is amended to read as follows:

§ 195.166 Sale or removal of vinegar or other fluid or material containing spirits.

No person shall remove, or cause to be removed, from any vinegar plant established under this part any vinegar or other fluid or material containing a greater proportion than 2 percent of proof spirits.

(72 Stat. 1391; 26 U.S.C. 5504)

§ 195.200 [Amendment]

PAR. 26. Section 195.200 is amended by deleting the word "notice" and inserting in lieu thereof the word "application".

§ 195.211 [Amendment]

PAR. 27. Section 195.211 is amended by deleting the word "notice" in the section title and inserting in lieu thereof the word "application".

§§ 195.220 and 195.221 [Deletion]

PAR. 28. Sections 195.220 and 195.221 are revoked.

§§ 195.260, 195.261, and 195.262 [Amendment]

PAR. 29. Sections 195.260, 195.261, and 195.262 are amended by deleting the word "notice" from the first sentence and inserting in lieu thereof the word "application".

(68A Stat. 917; 26 U.S.C. 7805)

[F.R. Doc. 59–5858; Filed, July 15, 1959; 8:46 a.m.]

Title 7—AGRICULTURE

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

PART 728—WHEAT

Subpart—1960–61 Marketing Year

MONTANA; REVISED COUNTY ACREAGE ALLOTMENTS FOR 1960 CROP

§ 728.1006 Basis and purpose.

(a) This amendment is issued pursuant to section 334 of the Agricultural Adjustment Act of 1938, as amended. Its purpose is to revise the county wheat acreage allotments for 1960 for the State of Montana as published in the FEDERAL REGISTER on July 7, 1959 (24 F.R. 5441). Revision of the county allotments for the State of Montana is required in order to correct errors in transcribing and totaling basic data used in determining the original county allotments for 1960.

(b) The law requires that farm wheat acreage allotments, which are based upon county wheat allotments, be determined and farmers notified thereof, if practicable, prior to the wheat marketing quota referendum on July 23, 1959. Accordingly, it is hereby found that it is impracticable and contrary to the public interest to comply with the notice, procedure, and 30-day effective date provisions of section 4 of the Administrative Procedure Act (5 U.S.C. 1003), and this amendment shall be effective upon filing with the Director, Division of the Federal Register.

§ 728.1007 Wheat acreage apportioned to counties for 1960.

The county wheat acreage allotments for 1960 for the State of Montana are revised to read as follows:

WHEAT ACREAGE APPORTIONED TO COUNTIES FOR 196

MONTANA

Counties	County wheat base acreage	Acreage apportioned to counties from State allotments	County reserve for appeals and corrections
Beaverhead	13,322	9,236	50
Big Horn	97,124	67,335	100
Blaine	116,003	80,423	100
Broadwater	37,036	25,677	25
Carbon	43,046	29,843	20
Carter	38,826	26,918	100
Cascade	182,678	126,648	600
Chouteau	484,061	335,593	700
Custer	30,398	21,074	100
Daniels	279,330	193,655	350
Dawson	184,926	128,207	300
Deer Lodge	1,496	1,037	1
Fallon	120,362	83,445	100
Fergus	222,262	154,091	250
Flathead	37,872	26,256	40
Gallatin	93,059	64,516	125
Garfield	60,704	42,035	100
Glacier	72,355	50,163	200
Golden Valley	26,552	18,408	40
Granite	1,796	1,245	5
Hill	436,359	302,868	500
Jefferson	13,284	9,210	25
Judith Basin	114,829	79,609	150
Lake	28,527	19,777	100
Lewis and Clark	21,808	15,119	40
Liberty	229,944	159,417	200
Lincoln	1,210	839	25
McCone	235,435	163,224	200
Madison	16,268	11,278	25
Meagher	5,653	3,919	25
Mineral	1,310	908	5
Missoula	12,144	8,419	15
Musselshell	24,306	16,851	35
Park	33,160	22,989	30
Petroleum	9,729	6,745	25
Phillips	127,772	88,582	75
Pondera	215,082	149,113	150
Powder River	42,045	29,149	100
Powell	7,258	5,032	15
Prairie	51,271	35,545	100
Ravalli	10,332	7,163	60
Richland	198,556	137,656	250
Roosevelt	362,520	251,330	200
Rosebud	35,065	24,310	150
Sanders	9,987	6,924	35
Sheridan	304,680	211,220	100
Silver Bow	113	78	----------
Stillwater	86,316	59,842	150
Sweet Grass	16,480	11,425	25
Teton	230,975	160,132	300
Toole	212,486	147,313	200
Treasure	8,589	5,955	30
Valley	323,139	224,028	100
Wheatland	13,901	9,637	40
Wibaux	76,362	52,941	200
Yellowstone	118,686	82,283	75
Reserve new farms	----------	1,500	----------
Reserve appeals and corrections	----------	1,203	----------
Total	5,779,289	4,009,398	7,061

(Sec. 375, 52 Stat. 66; 7 U.S.C. 1375. Interprets or applies secs. 334, 52 Stat. 54, 67 Stat. 151; 7 U.S.C. 1334)

Done at Washington, D.C., this 14th day of July 1959.

WALTER C. BERGER,
Administrator,
Commodity Stabilization Service.

[F.R. Doc. 59–5896; Filed, July 14, 1959; 1:53 p.m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 958—IRISH POTATOES GROWN IN COLORADO

Limitation of Shipments; Area 3

Findings. (a) Marketing Agreement No. 97, and Order No. 58 (7 CFR Part 958), effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provide methods for limiting the handling of potatoes grown in the area defined therein through the issuance of regulations authorized in §§ 958.1 through 958.88, inclusive, of the order. The area committee for Area No. 3, pursuant to § 958.19 of the order, has recommended that regulations limiting the handling of 1959 crop potatoes should be issued. The recommendations of the committee and information submitted by it, with other available information, have been considered and it is hereby found that the limitation of shipments hereinafter set forth will tend to effectuate the declared policy of the act.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1001–1011) in that (1) the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, (2) more orderly marketing in the public interest, than would otherwise prevail, will be promoted by regulating the shipment of potatoes, in the manner set forth below, on and after the effective date of this section, (3) compliance with this section will not require any special preparation on the part of handlers which cannot be completed by the effective date, (4) reasonable time is permitted, under the circumstances, for such preparation, and (5) information regarding the committee's recommendations has been made available to producers and handlers in the production area.

§ 958.330 Limitation of shipments.

During the period from July 20, 1959, through June 30, 1960, no person shall ship any lot of potatoes grown in Area No. 3 unless such potatoes meet the following requirements. The requirements of paragraph (b) of this section shall terminate on October 10, 1959.

(a) *Minimum grade and size requirements*—(1) *Round varieties.* U.S. No. 2, or better, grade, 2 inches minimum diameter.

(2) *Long varieties.* U.S. No. 2, or better, grade, 2 inches minimum diameter or 4 ounces minimum weight.

(b) *Minimum maturity requirements*—(1) *All varieties.* Not more than "slightly skinned".

(2) Not to exceed a total of 100 hundredweight of such potatoes may be shipped for any producer without regard to the aforesaid maturity requirements if the handler thereof reports to the area committee for Area No. 3, prior to such handling, the name and address of the producer of such potatoes, and each shipment hereunder is handled as an identifiable entity.

(3) For the purpose of determining who shall be entitled to the exception set forth in subparagraph (2) of this paragraph, "producer" means any individual, partnership, corporation, association, landlord-tenant relationship, community property ownership, or any other business unit engaged in the production of potatoes for market, and it is intended that such exception shall apply separately to each farm of a producer and only to the potatoes grown on such farm.

(c) *Definitions.* The terms "U.S. No. 2 grade" and "slightly skinned," shall have the same meaning as when used in the United States Standards for Potatoes (§§ 51.1540–51.1556 of this title), including the tolerances set forth therein. Other terms used in this section shall have the same meaning as when used in said marketing agreement and order (§§ 958.1 to 958.88).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 13, 1959, to become effective July 20, 1959.

S. R. SMITH,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 59–5876; Filed, July 15, 1959; 8:49 a.m.]

Title 32—NATIONAL DEFENSE

Chapter V—Department of the Army

SUBCHAPTER G—PROCUREMENT

PART 590—GENERAL PROVISIONS

PART 591—PROCUREMENT BY FORMAL ADVERTISING

PART 592—PROCUREMENT BY NEGOTIATION

PART 596—CONTRACT CLAUSES

PART 597—TERMINATION OF CONTRACTS

PART 598—PATENTS, COPYRIGHTS, AND TECHNICAL DATA

PART 605—PROCUREMENT FORMS

PART 606—SUPPLEMENTAL PROVISIONS

Miscellaneous Amendments

1. Revise paragraph (b) of § 590.301, paragraph (e) of § 590.401, paragraphs (i) and (j) of § 591.201, paragraph (b) of § 591.202, and paragraph (a) of § 591.202–4, as follows:

§ 590.301 Methods of procurement.

* * * * *

(b) Procurements effected under the authority of the act of August 28, 1958, authorizing extraordinary contractual actions to facilitate the National Defense, 72 Stat. 972; 50 U.S.C. 1431–1435, and Executive Order 10789, will be governed by the policies and procedures set forth in Part 17 of this title.

§ 590.401 Responsibility of each procuring activity.

* * * * *

(e) The responsibility and authority of heads of procuring activities in connection with applications for relief under the authority of the Act of August 28, 1958, authorizing extraordinary contractual actions to facilitate the national defense, 72 Stat. 972; 50 U.S.C. 1431–1435, and Executive Order 10789, are set forth in Part 17 of this title.

§ 591.201 Preparation of forms.

* * * * *

(i) *Price escalation.* If it is anticipated that some or all of the bidders will respond with bids which will include a provision for escalation, the invitations for bids will clearly state the specific escalation clause to be selected by the contracting officer from the clauses appearing in § 7.106 of this title which may be included in the bid and which shall be considered responsive. The invitation for bids shall further state that all bids which include a provision for escalation will be evaluated after applying the maximum amount of escalation. (§ 591.406(b).)

(j) *Availability, identification, and review of specifications.* Each invitation for bids shall list for each item included therein the applicable specifications as authorized for procurement in § 590.305(a) of this chapter, or will contain a description as provided in § 590.305(b) of this chapter. Such reference to specifications shall include the title and symbols with any revision letters, and dates, including any amendments identified by numbers and dates.

Prior to issuance of invitations for bids the proposed specifications shall be reviewed in accordance with procedures prescribed by heads of procuring activities (1) to insure compliance with the provisions of § 1.305 of this title and § 590.305 of this chapter, and (2) to eliminate subsequent procurement actions which would be prejudicial to the Government and to potential bidders. Such review is intended to eliminate or correct unduly restrictive specifications and to prevent, so far as practicable, the necessity for amendment of invitations after issuance, and the cancellation of invitations after opening, with consequent disclosure of bids where no award is to be made.

§ 591.202 Methods of soliciting bids.

* * * * *

(b) *Time allowed before opening.* Invitations for bids, will as a rule, allow 30 days to intervene between the date of issuance and the date of opening bids. A shorter period may be allowed, but no period of less than 10 days will be designated, except in case of emergency. The existence of such emergency will be determined by the contracting officer, and the copy of the invitation furnished the Procurement Information Center, Office

of the Deputy Chief of Staff for Logistics, Department of the Army (§ 591.250(a)), will bear on its face the following statement and appropriate reasons signed by the contracting officer: "The date shown hereon for the opening of bids cannot be a later date for the following reasons:"

§ 591.202–4 Publishing in newspapers.

* * * * *

(a) *Authority.* (1) Authority to approve the publication of paid advertisements in newspapers, magazines, and other periodicals in connection with the dissemination of procurement information (invitations for bids and proposed purchases), recruitment of both military and civilian personnel, and all other forms of advertising authorized by law has been delegated by the Secretary to:

(i) The Assistant Secretary of the Army (Logistics).

(ii) The Deputy Chief of Staff for Logistics, Department of the Army.

(iii) Chief, Procurement Division, Office of the Deputy Chief of Staff for Logistics, Department of the Army.

(iv) Chief, Contracts Branch, Office of the Deputy Chief of Staff for Logistics, Department of the Army.

(v) The Adjutant General, for recruiting purposes only.

(vi) The Commander in Chief, U.S. Army, Europe, for the recruiting of indigenous labor at local wage rates.

(vii) Commanding generals and their deputies, ZI armies, for recruiting purposes only.

(viii) Chief of Engineers, for real estate and construction matters in CONUS and overseas and for recruitment of civilian personnel.

(ix) Chief of Transportation, for advertising Army-owned interchange freight and passenger car equipment in official train equipment registers and for recruitment of civilian personnel.

(x) The Quartermaster General, The Chief Signal Officer, The Chief of Ordnance, The Chief Chemical Officer and The Surgeon General, for recruiting civilian personnel.

(xi) Division Engineers, Corps of Engineers, for civil and military construction only.

(xii) The Commanding Officer, Army Property Disposal Center, Office of the Quartermaster General, for the disposition and sale of Army Surplus and foreign excess personal property. Such delegated authority shall not be redelegated.

(2) No advertisement, notice, or proposal shall be published in any newspaper except in pursuance of written authority for such publication from the Secretary or the appropriate official named above, or of a person to whom administrative duties have been duly assigned by the Secretary or the appropriate official named above, and no bill for any such advertising or publication shall be paid unless there be presented, with such bill, a copy of such written authority.

(3) The administrative duties involved in accomplishing such advertising may be assigned by the appropriate official named above to subordinates by name or position (or by name and position, if appropriate) by suitable instruments in writing setting forth the extent of the administrative duties involved and authorized to be performed by or through such subordinates (28 Comp. Gen. 305). Copies of instruments assigning administrative duties hereunder:

(i) Must either be attached to the first voucher submitted for payment to the United States General Accounting Office, Audit Branch, Indianapolis 49, Indiana; or

(ii) Be forwarded direct to that Branch immediately upon the issuance of same.

2. Section 591.352 is revised, paragraphs (d) and (e) of § 591.405–2 are revised and paragraph (f) added, § 591.405–51 is revoked, and § 591.406 is revised, as follows:

§ 591.352 Statement of contingent or other fees.

The prescribed procedure with respect to obtaining information concerning contingent or other fees paid by bidders or contractors for soliciting or securing Government contracts, including the use of Standard Form 119 (Contractor's Statement of Contingent or Other Fees for Soliciting or Securing, or Resulting from Award of, Contract), is set forth in Subpart E, Part 1 of this title, and Subpart E, Part 590 of this chapter.

§ 591.405–2 Mistakes disclosed after opening and prior award other than obvious or apparent mistakes of a clerical nature.

* * * * *

(d) The action taken to verify bids, as required by § 2.405–2(d) of this title must be sufficiently complete to either reasonably assure the contracting officer that the bid, as confirmed, is without error, or elicit the anticipated allegation of a mistake by the bidder. To insure that the bidder concerned will be put on notice of the mistake suspected by the contracting officer, the bidder should be advised, as is appropriate to the particular circumstances of the case, of (1) the fact that his bid is out of line with the next low or with the other bids, (2) important or unusual characteristics of the specifications, (3) changes in requirements from previous purchases of a similar item, or (4) such other data as may be proper for such disclosure to the bidder as will give him notice of the mistake which the contracting officer suspects. Where the initial confirmation of a bid by a bidder does not dispel the suspicion of an error, the contracting officer should seek further verification or should employ other means deemed appropriate to resolve the question of a possible error in the bid.

(e) Where circumstances require such prompt action as to preclude transmittal of the case by mail, contracting officers will use telegraphic, telephonic, or radio means of communicating with the appropriate higher authority, furnishing, so far as possible, the information called for by § 2.405–2(e) of this title.

(f) Notice to contracting officers of determinations made by higher authority and instructions based thereon will be issued by the head of a technical service when so authorized, or by the Deputy Chief of Staff for Logistics (Chief, Contracts Branch), to the Head of the Procuring Activity, except that in the latter instance contracting officers may be notified direct in cases requiring expeditious action and the Head of the Procuring Activity notified simultaneously.

§ 591.405–51 [Revocation]

§ 591.406 Award.

(a) *Making the award.* When a contracting officer has invited and received bids, he will make the award and execute the necessary papers, unless all bids are rejected. If an award requires the approval of higher authority, the award will not be made until such approval has been obtained. Every effort shall be made to make the award within the acceptance period allowed by the bidder in its bid. However, where such period is insufficient to permit evaluation, resolution of difficulties, and award prior to the expiration of a bid, the contracting officer shall request the bidder to extend in writing the bid acceptance period for a specified number of days, unless such action would be prejudicial to the other bidders.

(b) *Price escalation.* (1) If the invitation for bids specifies the escalation clause that will be considered responsive, bids containing such provision will be evaluated by applying the maximum amount of escalation, and award will be made to the bidder whose maximum price is lowest to the Government, provided the bid is otherwise responsive to conditions of the invitation. (§ 591.201 (i).)

(2) If the invitation for bids is silent on the matter of escalation, bids may not be rejected solely on the basis of inclusion of an escalation clause; evaluation will be performed is the manner prescribed in subparagraph (1) of this paragraph. Authority for use of clauses other than those appearing in § 7.106 of this title must be received from Deputy Chief of Staff for Logistics, Department of the Army, ATTN: Chief, Contracts Branch. In those instances where bidders respond with different types of escalation clauses and it is impossible to evaluate the bids adequately, the bids should be rejected and readvertisement effected with the invitation for bids containing an escalation clause appearing in § 7.106 of this title.

3. Revise §§ 592.102, 592.104, 592.107, 592.156, 592,200, 592.218, and 592.302 to read as follows:

§ 592.102 General requirements for negotiation.

No contract shall be entered into as a result of negotiation unless or until the following requirements have been satisfied:

(a) The contemplated procurement comes within one of the circumstances permitting negotiation enumerated in Subpart B, Part 3 of this title and Subpart B of this part.

(b) Necessary determinations and findings prescribed by Subpart C, Part 3 of this title and Subpart C of this part, have been made.

(c) Such clearance or approvals have been obtained as are prescribed by this

subchapter and applicable procuring activity instructions (§ 606.204 of this chapter).

(d) The requirements of §§ 592.200–50 and 590.403 have been satisfied.

§ 592.104 Aids to small business in negotiated procurement.

See Subpart G, Part 1 of this title and Subpart G, Part 590 of this chapter.

§ 592.107 Late proposals and late unsolicited revisions to proposals.

Section 3.107 of this title is not applicable to purchases of $2,500 and less, utilizing the small purchase procedures.

§ 592.156 Disclosure of mistakes after award.

It is the policy of the Department of the Army to conduct negotiations with a view toward complete and final understanding between the contracting parties prior to the execution of a formal contract. The consideration to be given a mistake alleged by a contractor after completion of negotiations and award of the contract will depend on whether the evidence establishes that the claim of mistake is bona fide. Except for such cases where the matter is resolved under Part 17 of this title, mistakes alleged by contractors after award will be processed in the same manner as prescribed in § 591.405–3 of this chapter for advertised procurements.

§ 592.200 Scope of subpart.

See § 3.200 of this title.

§ 592.218 Construction work.

See § 3.218 of this title.

§ 592.302 Determinations and findings by the Secretary of a Department.

In addition to the determinations and findings required by § 3.302 of this title, determinations and findings with respect to procurement actions effected pursuant to the Act of 28 August 1958, authorizing extraordinary contractual actions to facilitate the national defense, 72 Stat. 972; 50 U.S.C. 1431–1435, and Executive Order 10789 (23 F.R. 8897), except as otherwise specifically authorized in Part 17 of this title, shall be made only by the Secretary of the Army. Action taken by the Army Contract Adjustment Board in this regard is deemed to be the action of the Secretary of the Army.

4. In § 592.303, revise paragraph (c), revise §§ 596.103–11 and 596.103–12, and add new § 596.203–4, to read as follows:

§ 592.303 Determinations and findings by the Head of a Procuring Activity signing as "a chief officer responsible for procurement."

* * * * *

(c) Determinations and findings which may be made by the Head of a Procuring Activity in connection with procurement actions effected under the authority of the Act of August 28, 1958 authorizing extraordinary contractual actions to facilitate the national defense, 72 Stat. 972; 50 U.S.C. 1431–1435, and Executive Order 10789 (23 F.R. 8897), are set forth in Part 17 of this title. Such authority may not be redelegated below the level of the Head of a Procuring Activity unless specifically authorized by the Assistant Secretary of the Army (Logistics).

§ 596.103–11 Default.

See § 7.103–11 of this title, Subpart F, Part 8 of this title, and Subpart F, Part 597 of this chapter.

§ 596.103–12 Disputes.

(a) *General*—(1) *Contract clause.* The Disputes clause contained in § 7.103–12 of this title shall be inserted as specified, except for contracts entered into by major oversea commanders and to be performed outside the United States (paragraph (c) of this section). The Disputes clause may be modified to provide for an intermediate appeal to the Head of a Procuring Activity upon approval of the Head of the Procuring Activity concerned.

(2) *Armed Services Board of Contract Appeals.* The charter and rules of the Armed Services Board of Contract Appeals are set forth in § 30.1 of this title. References herein to "Rules" are to the mentioned rules.

(3) *Correspondence and communications.* All official correspondence with the Board will be addressed to the Army Contract Appeals Panel, Armed Services Board of Contract Appeals, Office of the Secretary of the Army, Washington 25, D.C. All official correspondence with the Chief Trial Attorney will be addressed to the Chief Trial Attorney, Office of The Judge Advocate General, Department of the Army, Washington 25, D.C. The Chief Trial Attorney and the attorneys assigned to his office are authorized to communicate direct by telephone or otherwise with any person or organization to secure any witnesses, documents, or information considered necessary in connection with properly protecting the interests of and representing the Government in matters before the Board.

(4) *Time of filing of appeal to be indorsed.* When a notice of appeal has been received by the contracting officer or the Head of a Procuring Activity, as the case may be, there shall be indorsed thereon the date of receipt, and also where apparent, the date of mailing or, if dispatched by appellant by other means, the date of such dispatch.

(b) *Procedure for handling disputes*—(1) *Screening.* (i) The contracting officer should screen disputes arising under contracts to insure that findings and decision appealable under the Disputes clause are rendered only on disputes concerning questions of fact or disputes otherwise made subject to the Disputes procedure by specific contract provisions, such as a dispute as to an equitable adjustment under § 7.103–2 of this title and § 596.103–2, Changes clause, or § 7.103–5 of this title, Inspection clause, or a dispute resulting from failure to agree on a redetermined price under § 596.105–5, Price Redetermination clause. For example, an appealable decision and findings should not be issued by the contracting officer: (*a*) Where a mistake in bid is alleged by the contractor after award in that procedure outlined in § 2.405–3 of this title and § 591.405 of this chapter covers such cases, or (*b*) where § 7.104–16 of this title, Gratuities clause, is to be revoked in that such clause and § 30.4 of this title, Findings of Fact, are made by duly designated representatives of the Secretary.

(ii) Whenever a contracting officer has doubt as to whether findings and a decision should be made pursuant to the Disputes clause, he should obtain the advice of legal counsel.

(2) *Findings and decision*—(i) *Definitions.* (*a*) *Decision.* The "Decision" is that document furnished by the contracting officer to the contractor which sets forth the findings of fact and the conclusion of the contracting officer deciding the matter in dispute.

(*b*) *Findings of Fact.* "Findings of Fact" is that portion of the decision of the contracting officer which recites his determination of the facts in dispute.

(*c*) *Complaint.* A "Complaint" is a written statement from the contractor filed with the Board stating the reasons which he believes entitle him to relief from the decision of the contracting officer. For the purposes of this procedure, a complaint need not be formally labeled as a "Complaint," but may be submitted as part of, or simultaneously with, the Notice of Appeal, or in letter or memorandum form subsequent to the filing of the Notice of Appeal.

(ii) Whenever it becomes necessary to render a decision on a dispute the contracting officer shall prepare and sign findings, a true copy of which with his written decision shall be promptly furnished the contractor. When the contractor has a right of appeal under the contract and such right is directly to the Secretary, the contracting officer shall conclude his decision with the following paragraph:

If the decision hereinbefore set forth results in a dispute concerning a question of fact or a dispute otherwise made subject to the Disputes procedure by specific contract provisions, you are hereby notified that you may appeal from this decision to the Secretary of the Army in accordance with the provisions of Clause_____, "Disputes" of the above numbered contract. A notice of appeal must be in writing and should indicate that an appeal is thereby intended, and should identify the contract (by number) and the decision from which the appeal is taken. The original, together with two copies, should be filed with the undersigned Contracting Officer. If a Notice of Appeal is filed, it will be forwarded to the Armed Services Board of Contract Appeals and the Recorder of that Board will docket the appeal and will forward to you a copy of the Rules of the Board. Under the Rules, the original and three copies of a Complaint may be filed with the contracting officer at the time the Notice of Appeal is filed, or it may be filed with the Recorder of the Board after the Appeal has been docketed. The rules provide that a Complaint should set forth a simple, concise, and direct statement of each claim, including the dollar amount claimed, and show wherein the contract or contends that he is entitled to relief. The rules further provide that each claim shall be stated with as much particularity as is practical, that each claim should be separately identified, that documentary evidence in support of claims may be filed as exhibits to the Complaints, that all documents filed as exhibits to the Complaint shall be plainly listed and identified in the Complaint, and that an original and three copies of the Complaint shall be filed. If any dispute resulting from the decision hereinabove set forth involves

an amount not in excess of $5,000, there is available in Rule 31 of the Rules of the Board an Optional Accelerated Procedure for disposition of the appeal by decision of a single member of the Board, either on the record or after an informal hearing. In order to invoke such accelerated procedure an appellant must specifically request in the complaint that the appeal be decided pursuant to the Optional Accelerated Procedure, and the Head of Procuring Activity concerned must concur. Where the parties agree to proceed under the Optional Accelerated Procedure and neither requests an informal hearing, decision will be made on the record.

(iii) It is emphasized that, where a contract provides for a Decision or a determination to be made by a contracting officer, he must give his personal and independent consideration to the making of each determination or decision, with the aid of such technical and legal advice as may be available to him.

(3) *Appeals to Secretary from decisions of contracting officers*—(i) *Policy.* It is the policy of the Secretary that appellants shall have prompt determination of disputes arising out of the performance of contracts. This policy may be achieved by reducing the administrative burden of processing low dollar appeals to the minimum consistent with the legal and contractual rights of the parties.

(ii) *Action by contracting officer.* (*a*) Within 10 days after receipt of a Notice of Appeal or a Complaint from the contractor, the contracting officer shall forward the same to the Board through the Head of the Procuring Activity concerned.

(*b*) Within 30 days after the receipt of the Notice of Appeal, the contracting officer shall forward to the Head of the Procuring Activity concerned a comprehensive report in narrative form concerning the dispute. The following shall be included in or attached to the report:

(*1*) The Findings of Fact supporting the Decision and the Decision from which the appeal is taken;

(*2*) The complete contract including all amendments, supplemental agreements and change orders, and the pertinent plans and specifications. In case of a negotiated procurement, a copy of the request for proposal will be included;

(*3*) All correspondence and memoranda or transcripts of meetings or telephone conversations pertinent to the appeal;

(*4*) The names and addresses of all potential witnesses, including those of the contractor, if known, having information concerning the facts in dispute. A statement signed by each Government witness reflecting the facts to which he will be able to testify (or a summary thereof if it is impossible to get the signed statement), and a statement as to the expected availability of each Government witness at the hearing;

(*5*) A discussion of the validity of the reasons submitted by the contractor for setting aside the Decision of the contracting officer.

(*6*) A memorandum by the legal advisor to the contracting officer setting forth an analysis of the legal issues involved in the dispute and comments upon the adequacy of the Findings of Fact and the legal sufficiency of the decision; and

(*7*) Such additional information as the contracting officer may consider pertinent, including such items as interoffice memoranda, sample photographs, and inspection, audit and financial reports.

(*c*) If a Complaint is received by the contracting officer subsequent to transmittal of the original comprehensive report referred to in (*b*) of this subdivision, the contracting officer, within 20 days after receipt of such Complaint, will forward to the Head of the Procuring Activity concerned a supplemental report of matters stated in the Complaint which were not previously covered in the comprehensive report. If the original report is sufficient to answer the matters alleged in the Complaint, the contracting officer will forward the Complaint with a statement to this effect and need not forward a supplemental report.

(*d*) Copies of all correspondence and all other data and information pertinent to the dispute received by the contracting officer after the comprehensive report has been submitted, shall be forwarded to the Chief Trial Attorney.

(*e*) Where the Complaint is filed with the contracting officer with the Notice of Appeal under Rule 3, the contracting officer will forward the Notice of Appeal and the original and three copies of the Complaint to the Board through the Head of the Procuring Activity within 10 days. Within 20 days after receipt of the Notice of Appeal and Complaint from the contractor, the contracting officer will prepare and forward to the Chief Trial Attorney, through the Head of the Procuring Activity a single comprehensive report containing the items described in (*a*) and (*b*) of this subdivision, and substantiating the position taken by the contracting officer.

(*f*) In order that the Chief Trial Attorney may file an answer under Rule 6 within 60 days after service of the Complaint, or in order that he may have justification for any request for extension of time, the above time limits must either be met or the Chief Trial Attorney must be notified of the reason for the delay and the estimated extent thereof.

(*g*) When the Optional Accelerated Procedure has been requested by the contractor (see Rule 31, ASBCA, § 30.1 of this title) and the Head of the Procuring Activity has consented thereto, all papers in the case will be transmitted to the contracting officer who shall through his local legal counsel:

(*1*) Within 20 days prepare, pursuant to the rules of the Board, the answer or other appropriate pleading and transmit the original and three copies to the Board, through the Chief Trial Attorney. The answer shall contain a statement that the Government has consented to the Optional Accelerated Procedure;

(*2*) Advise the contractor of the Government's assent to the Optional Accelerated Procedure and that the Government's answer will be transmitted to the contractor by the Recorder of the Board. He will also remind the contractor that if the contractor desires an oral hearing its request therefor must be made within 10 days of receipt of its copy of the answer. The contracting officer should further request that he (the contracting officer) be informed promptly when the contractor has received the answer;

(*3*) Determine whether the best interests of the Government will be served by an oral hearing and, as soon as the contractor has received its copy of the answer, consult with the contractor regarding its wishes for such hearing. If neither desires an oral hearing, the appeal shall be deemed submitted on the record. If either desires an oral hearing, they shall set a mutually agreeable, tentative time and place for the hearing (the Board will fix the definite time and place) giving primary consideration to the convenience of the contractor, and the contracting officer shall so inform the Board within 10 days of the receipt of the answer by the contractor;

(*4*) If neither party has requested an oral hearing within the 10-day period provided for in the Board's Rules, forward to the Recorder of the Board through the Chief Trial Attorney within 20 days of the expiration of such period the documents, or certified true copies thereof, listed in (*b*) (*1*), (*2*), (*3*), (*5*), and (*7*) of this subdivision and advise the contractor that it may submit such additional documentation as it desires within a like time. If considered necessary or desirable a memorandum by the legal advisor setting forth an analysis of the legal issues involved may be forwarded with the documentation;

(*5*) If a hearing has been requested prepare and file all necessary motions, briefs, and other documents, and present the Government's case before the Board hearing member or examiner; and

(*6*) Maintain direct communication with the Recorder of the Board and the Chief Trial Attorney concerning the case and, if deemed advisable, request the assistance of the Chief Trial Attorney.

(iii) *Action by Head of a Procuring Activity.* The Head of the Procuring Activity receiving an appeal to the Secretary from a Decision of a contracting officer shall:

(*a*) Forward the required copies of the Notice of Appeal and the Complaint (if the Complaint was furnished to the Contracting Officer with the Notice of Appeal) to the Board without delay.

(*b*) Carefully review the Decision from which the appeal is taken to ascertain that all basic findings of fact are complete as to all issues bearing on the matter in dispute.

(*c*) Insure that the reports submitted by the contracting officer under subdivision (i) of this subparagraph are complete and ascertain that the evidence relied upon in support of the Decision does support the Government's position.

(*d*) Refer to the contracting officer for supplemental findings cases in which the original Findings of Fact do not contain all of the basic findings required to support the Decision or in which the Findings of Fact are not complete as to all issues bearing upon the matter in dispute.

(*e*) Return to the contracting officer for reconsideration, with appropriate instructions, all cases wherein timely ap-

peal has been taken and it is clear from the evidence, contractual provisions and the applicable law, that the contracting officer's Decision is erroneous or not supported by competent and available evidence.

(*f*) When the head of a procuring activity, who is a chief of a technical service, decides that an appeal before the Armed Services Board of Contract Appeals will involve difficult operational and technical facts and has particular significance to his Technical Service, he may, on or before the filing of the comprehensive report and after consultation with The Judge Advocate General, detail to the Chief Trial Attorney an attorney of his technical service who has the necessary knowledge and who will be an attorney of record and act as the trial attorney for the case in each of its stages.

(*g*) Notify the Chief Trial Attorney within 10 days after action has been taken by the Head of the Procuring Activity under (*d*) and (*e*) of this subdivision; this notification will indicate the nature thereof, and will include an estimate as to when the appeal will be either withdrawn, or ready for preparation of an answer.

(*h*) Where action is not taken under (*d*) and (*e*) of this subdivision, forward to the Chief Trial Attorney (within 10 days after receipt) each of the reports of the contracting officer referred to in subdivision (ii) of this subparagraph together with the Head of the Procuring Activity's evaluation of the factual and legal issues involved as well as his conclusions and recommendations thereon. Where action is taken under (*d*) and (*e*) of this subdivision and the action does not dispose of the appeal, the Head of the Procuring Activity will take the same steps with regard to the reports of the contracting officer as are outlined in the foregoing sentence. The Head of the Procuring Activity will also furnish any additional evidence (documents, statements of witnesses, etc.) considered essential to enable the Chief Trial Attorney to properly protect the interests of and represent the Government before the Board.

(*i*) Insure that assistance is rendered to the Chief Trial Attorney in obtaining additional evidence or in making other necessary preparations for presenting the Government's position to the Board. In order that the Chief Trial Attorney may file timely pleadings in accordance with the Rules of the Board or that he may have justification for any request for extensions of time, it is imperative that heads of procuring activities furnish information within the prescribed time limit, or that the reason for the delay and estimated extent thereof be furnished to the Chief Trial Attorney.

(*j*) In the event the contractor has requested the Optional Accelerated Procedure, determine whether the Government's interests shall be adequately served by consenting thereto.

(*l*) If the Head of the Procuring Activity rejects the request for the Optional Accelerated Procedure, he shall comply with the requirements of (*a*) through (*i*) of this subdivision, and include his decision as to the Optional Accelerated Procedure in his report to the Chief Trial Attorney.

(2) If the Head of the Procuring Activity consents to the Optional Accelerated Procedure, he shall comply with the requirements of (*a*) through (*f*) of this subdivision, return the file to the contracting officer for preparation and presentation of the Government's position, and simultaneously notify the Board, through the Chief Trial Attorney, that the Government consents to the Optional Accelerated Procedure.

(*k*) If the appeal is from a decision of the Head of the Procuring Activity and the parties have agreed to the Optional Accelerated Procedure, the Head of the Procuring Activity shall not comply with subparagraph (5) of this paragraph, but shall prepare and present the case as prescribed for the contracting officer under subdivision (ii) (*g*) (*1*) through (*6*) of this subparagraph.

(4) *Immediate appeal to Heads of Procuring Activities.* Where a clause providing for intermediate appeal to the Head of a Procuring Activity has been authorized, necessary instructions covering the processing of such appeals to the Head of the Procuring Activity may be issued: *Provided,* That appeal taken from Decision of the Head of the Procuring Activity must be processed in accordance with the procedure prescribed herein.

(5) *Appeals to Secretary from decisions of Heads of Procuring Activities.* Within 15 days after receipt of a Notice of Appeal, the Head of a Procuring Activity shall prepare and forward to the Chief Trial Attorney a complete report containing a statement of the factual and legal issue involved in the appeal and inclosing therewith the following: A copy of his decision; the advisory report, if there be one, of the contract settlement board in his office; a transcript of any testimony taken during the course of the proceedings; a duplicate original or a certified copy of the contract including the plans and specifications and all changes and supplemental agreements; the Decision of the contracting officer; all papers and correspondence pertaining to the contract and pertinent to the consideration of the appeal; the name of each witness having knowledge that will support the Government's position; a statement signed by each witness reflecting facts to which he will be able to testify or a summary thereof if it is impossible to get the signed statement (a statement signed by an individual witness may be omitted if the substance of expected testimony is set forth in the transcript of proceedings); a statement as to the expected availability at the hearing of each witness; and such other information as may be necessary to substantiate the position taken by the Head of the Procuring Activity with regard to the appeal. Additionally, the Chief Trial Attorney shall transmit to the Head of the Procuring Activity a copy of the Complaint, and the Head of the Procuring Activity will furnish comments as to each allegation of fact in such Complaint (treating them in the order set forth therein) and comments as to whether it is well founded and, if not, a recital of the evidence to refute the same. Further, he shall insure that all essential witnesses and documentary evidence will be available at the time of the hearing of the appeal.

(6) *Appeals filed with the Secretary or the Board.* Where an appeal is filed directly with the Office of the Secretary of the Army or the Armed Service Board of Contract Appeals, the Board, pursuant to its rules and procedure, will promptly furnish a copy thereof to the Head of the Procuring Activity concerned, through the Chief Trial Attorney's office. Upon the receipt of such appeal the procuring activity shall process the appeal as though it had been initially filed with the activity.

(7) *Appeals improperly filed.* If any officer or agency of the Department of the Army other than the officer or agency designated in the contract, should receive a written appeal, the recipient shall, after endorsing thereon the date of its receipt, immediately transmit the appeal to the Head of the Procuring Activity concerned:

(i) For appropriate action as provided in subparagraph (5) of this paragraph if the appeal is from the Decision of the Head of a Procuring Activity, or

(ii) For action as required by subparagraph (3) of this paragraph if the appeal is from the Decision of a contracting officer.

(8) *Functions of the Office of the Chief Trial Attorney*—(i) *Optional accelerated procedure.* (*a*) When the Optional Accelerated Procedure has been requested by the contractor, the Chief Trial Attorney will forward the complaint together with any files received pertaining to the dispute to the Head of the Procuring Activity for his decision in accordance with subparagraph (3) (iii) (*j*) of this paragraph.

(*b*) If the Head of the Procuring Activity has not concurred in the request, the appeal shall be handled by the Chief Trial Attorney in the same manner as other appeals except, that the answer shall contain the statement that the Government does not consent to the Optional Accelerated Procedure.

(*c*) If the parties have agreed to the Optional Accelerated Procedure, the Chief Trial Attorney shall transmit any papers he received relating to the case not previously returned to the contracting officer and shall participate in the preparation and presentation of the case only at his request.

(ii) *New facts or circumstances.* Upon discovery of new facts or circumstances the Chief Trial Attorney is authorized, in appropriate cases, to return appeals to the Head of the Procuring Activity for reconsideration in the light of the additional facts or circumstances disclosed.

(iii) *Agreements or stipulations.* Pursuant to Rule 27, the Office of the Chief Trial Attorney may enter into an agreement, by stipulation or otherwise with appellant or his attorney on matters as to which there is no substantial controversy. Such agreements may be of two types:

(*a*) *Agreements on matters not disposing of an appeal.* An agreement on matters as to which there is no substantial controversy and which will not have the effect of disposing of an appeal may

be entered into by the Chief Trial Attorney or by an individual Trial Attorney provided authority threfor shall have been granted in advance by the Chief Trial Attorney.

(b) *Agreement on matters disposing of an appeal.* Pursuant to Rule 27, the Board may suspend further processing of an appeal in order to permit reconsideration by the contracting officer whenever it appears that appellant and the Chief Trial Attorney are in agreement as to the disposition of a controversy, subject to the provision that if the case is not actually disposed of by agreement it may be restored to the Board's calendar for hearing. In appropriate cases, such as those in which it is desirable to avoid time consuming delays incident to returning the appeal to the contracting officer, the Chief Trial Attorney (or an individual Trial Attorney acting with prior approval of the Chief Trial Attorney) may enter into an agreement with an appellant which will have the effect of disposing of an appeal after concurrence has been obtained from a representative of the Head of the Procuring Activity. Such agreement may then become the basis of a Board decision disposing of the appeal.

(9) *Motions for reconsideration.* (i) Heads of procuring activities shall review all decisions of the Armed Services Board of Contract Appeals with respect to their contracts, and, if they are of the opinion that any such decision is clearly erroneous, shall request the Chief Trial Attorney, within 10 days of the receipt of the decision, to move the Board for reconsideration, giving the grounds relied upon to sustain such a motion. The Chief Trial Attorney shall file a motion for reconsideration upon the request of the Head of the Procuring Activity, or, if he disagrees that such motion is appropriate, shall forward the request, together with his reasons in opposition within 5 days to the Assistant Secretary of the Army (Logistics) for decision. In all other cases heads of the procuring activities may request the Chief Trial Attorney to file such motion.

(ii) The Chief Trial Attorney shall independently review all decisions of the Armed Services Board of Contract Appeals involving Army contracts and, if he considers any such decision to be clearly erroneous, shall file with the Board a motion for reconsideration. In all other cases he may file such motion.

(iii) At a hearing on a motion for reconsideration, the Government's case normally shall be presented by the Chief Trial Attorney, assisted by the trial attorney who argued the Government's case on the appeal and an attorney designated by the Head of the Procuring Activity.

(iv) If the Head of a Procuring Activity is of the opinion, after a rehearing by the Armed Services Board of Contract Appeals or refusal of the Board to grant a rehearing, that the file should be referred to the Comptroller General for advance decision prior to payment, he will forthwith so advise The Judge Advocate General setting forth his reasons therefor, and instruct the contracting officer concerned to withhold submission of the voucher thereon. The Judge Advocate General will, within 10 days after receipt of such advice, report the same to the Assistant Secretary of the Army (Logistics) with his recommendations.

(c) *Major oversea commands.* (1) The following Disputes clause shall be inserted in all contracts entered into by major oversea commands and to be performed outside the United States in lieu of the clause set forth in § 7.103–12 of this title:

DISPUTES

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. Within 30 days from the date of receipt of such copy, the Contractor may appeal by mailing or otherwise furnishing to the Contracting Officer a written appeal addressed to the Commanding General (----------*) and the decision of the Commanding General (----------*), or that of his duly authorized representative (other than the Contracting Officer under this contract) for the hearing of such appeals, shall, unless determined by a court of competent jurisdiction to have been fraudulent, arbitrary, capricious, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence, be final and conclusive upon the parties hereto when the amount involved in the appeal is $50,000 or less: *Provided,* That if no appeal is taken, within the said 30 days, the decision of the Contracting Officer shall be final and conclusive. When the amount involved is more than $50,000 the decision of the Commanding General (----------*) shall be subject to written appeal within 30 days after the receipt thereof by the Contractor to the Secretary of the Army and the decision of the Secretary or his duly authorized representative for the hearing of such appeals shall, unless determined by a court of competent jurisdiction to have been fraudulent, arbitrary, capricious, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence, be final and conclusive: *Provided,* That if no such further appeal is taken, within the said 30 days, the decision of the Commanding General (----------*) or that of his duly authorized representative shall be final and conclusive. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with Contracting Officer's decision.

(b) This "Disputes" clause does not preclude consideration of questions of law in connection with decisions provided for in paragraph (a) above: Provided, That nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

(2) Each commanding general of a major oversea command shall appoint within his command a Board to be known as "[name of command] Board of Contract Appeals." The Board shall consist of three or more members who shall be persons trained in the law, one of whom shall be designated by the appointing authority as the President of the Board. There also shall be appointed a Recorder of the Board who will perform such duties as the Board may prescribe. The Recorder of the Board also may be a member thereof.

(3) The Board, created pusuant to the provisions of subparagraph (2) of this paragraph shall be designated by the commanding general as his duly authorized representative to hear, consider, and decide, as fully as he might do, all appeals to him under contracts having such provisions. The Board shall be granted all powers necessary and incident to the proper performance of its duties and, with the approval of the appointing authority, shall adopt its own methods of procedure, rules, and regulations for its conduct and for the preparation and presentation of appeals and issuance of decisions.

(4) Each commanding general of a major oversea command shall designate one or more trial attorneys, who shall be qualified attorneys at law, for the preparation and presentation of the contentions of the procuring activity in relation to appeals filed with the Board.

*Specify name of major oversea command concerned.

§ 596.203–4 Allowable cost, fee, and payment.

Contracting officers may substitute the alternate text provided by § 7.203–4(c)(3) of this title, where appropriate, for the third sentence of subparagraph (c)(1) in the Allowable Cost, Fee, and Payment clauses. Appropriate instances for the utilization of this alternate provision includes supply contracts covering the provision of spare parts, as well as other supply and service contracts where determined appropriate by the contracting officer. The increments of work specified should provide sufficient flexibility for contracting officers to work out appropriate contractual coverage for those procurements involving spare parts or a multiplicity of end items on which it is impractical to liquidate the withheld amounts on an individual item basis. The liquidation could be carried out by the establishment of increments based on selected predetermined percentages of costs to be incurred. Similarly, increments of time for the liquidation of the withheld portions might be established in the contract based on the expected period and level of performance.

5. Part 597 is revised to read as follows:

Sec.

AUTHORITY: §§ 597.000 to 597.750 issued under sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

§ 597.000 Scope and applicability of part.

See § 8.200 of this title.

Subpart A—Definition of Terms

(See Subpart A, Part 8 of this title.)

Subpart B—General Principles Applicable to the Settlement of Fixed-Price Type Contracts Terminated for Convenience and to the Settlement of All Terminated Cost-Reimbursement Type Contracts

§ 597.200 Scope of subpart.

See § 8.200 of this title.

§ 597.201 Authority of Contracting Officers.

The Head of the Procuring Activity shall prescribe procedures under which contracting officers may terminate contracts for the convenience of the Government and in the case of cost-reimbursement type contracts for the default of the contractor. Notwithstanding a change in requirements a contract is not to be terminated for convenience (except at no-cost to the Government as provided in § 8.602–4(c) of this title) if the contractor is in unexcusable default and the Government has a legal right to terminate such contract for default.

§ 597.202 Notice of termination.

See § 8.202 of this title.

§ 597.203 Methods of settlement.

See § 8.203 of this title.

§ 597.204 Duties of Prime Contractor after receipt of notice of termination.

See § 8.204 of this title.

§ 597.205 Duties of Contracting Officer after issuance of Notice of Termination.

See § 8.205 of this title.

§ 597.206 Fraud or other criminal conduct.

See § 8.206 of this title.

§ 597.207 Audit of settlement proposals and of subcontract settlements.

(a) *General.* Referral by the contracting officer to the U.S. Army Audit Agency of settlement proposals and requests for audit which are required to be submitted under the provisions of § 8.207 of this title shall be governed by the provisions of § 606.207 of this chapter, in addition to the requirement for audit support, contracting officers generally should solicit accounting counsel from the cognizant audit agency on audit problems relating to prime or subcontract termination settlement proposals.

(b) *Subcontract settlement proposals.* (1) Except for settlements made pursuant to § 8.208–4(a) of this title contracting officers shall, in regard to subcontractor settlement proposals of less than $25,000, instruct prime contractors to submit the accounting analysis of the subcontractor's proposal along with the proposed settlement with the subcontractor at the time the subcontractor's proposed settlement is forwarded for review and ratification by the contracting officer. The adequacy of the accounting examination performed on the subcontractor's termination settlement proposal will be reviewed by the contracting officer. The services of the cognizant audit agency may be utilized for this purpose. Where the accounting examination or review is found to be acceptable, no further audit shall be required. If the contracting officer is not satisfied with the accounting examination or review which has been made by the prime contractor or a higher-tier subcontractor he will submit the proposal to the cognizant audit agency for examination and recommendation together with a copy of the accounting analysis made by the contractor or subcontractor.

(2) Settlement proposals under terminated subcontracts which are common to two or more prime contracts require special consideration. To permit the contracting officer to make proper allocations to the prime contracts involved and to facilitate joint settlement of two or more claims by prime contractors pursuant to § 8.209–6 of this title and § 597.209–6, referral of subcontract settlement proposals should be made to the cognizant audit agency even though such claims amount to less than $25,000.

(3) The contracting officer and the prime contractor may agree that any audit or other substantiation of subcontractor's costs may be undertaken by the Government instead of by the prime contractor or higher-tier subcontractor.

§ 597.208 Settlement of subcontract claims.

See § 8.208 of this title.

§ 597.208–6 Delay in settlement of subcontractor claims.

Where it is necessary to exclude the claim of a subcontractor from the settlement with a prime contractor, such exclusion will be reported as an "Unassumed Exclusion" in the manner prescribed by the Head of the Procuring Activity. Each such settlement agreement shall be clearly marked as follows: "This Settlement Agreement contains an Unassumed Exclusion."

§ 597.208–7 Government assistance in settlement of subcontracts.

See § 8.208–7 of this title.

§ 597.208–8 Assignment of rights under subcontracts.

Whenever a contracting officer determines that it is in the best interests of the Government to settle and pay a subcontractor's termination claim directly, approval shall first be obtained from the Head of the Procuring Activity concerned, or from his deputy or principal assistant responsible for procurement. Contracting officers in requesting approval shall clearly indicate the basis for determining that such action is in the best interests of the Government. The approving authority shall grant approval only if it appears that the reasons for direct settlement and payment outweigh the obligation of the prime contractor to accomplish settlement and payment.

§ 597.209 Settlement agreements.

See § 8.209 of this title.

§ 597.209–1 General.

See § 8.209–1 of this title.

§ 597.209–2 Excepted items.

Where it is necessary to exclude from a settlement any rights or claims of the Government or of the contractor such exclusion shall be reported as an "Unassumed Exclusion" in the manner prescribed by the Head of the Procuring Activity.

§ 597.209–6 Joint settlement of two or more claims.

Joint settlements shall not be undertaken with respect to any contract on which all contract actions applicable to the terminated portion of the contract have not been completed (e.g. price redetermination, change order, etc.).

§ 597.209–7 Settlement by determination.

See § 8.209–7 of this title.

§ 597.210 Contracting Officer's negotiation memorandum.

See § 8.210 of this title.

§ 597.211 Review and approval of proposed settlements.

See § 8.211 of this title.

§ 597.211–1 Settlement review boards.

See § 8.211–1 of this title.

§ 597.211–2 Required review and approval.

In addition to the review and approval required by § 8.211 of this title, all proposed settlements in excess of $2,000,000 shall be submitted by the heads of procuring activities to the Deputy Chief of Staff for Logistics, Headquarters, Department of the Army, ATTN: Chief, Contracts Branch, for approval.

§ 597.211–3 Scope of review.

See § 8.211–3 of this title.

§ 597.211–4 Action by Board.

All actions by the Settlement Review Board shall be taken at duly constituted meetings of such Board. and the written opinion of the Board setting forth its approval or disapproval of the proposed settlement shall be signed by each Board member present. Such written opinion should not be a repetition of the contracting officer's memorandum, but will contain all pertinent facts which prompted the approval or disapproval of the proposed settlement. Proposed settlements by agreement disapproved by the Board shall be returned to contracting officers for further negotiation with the contractor within the framework of the Board's opinion. Upon conclusion of such negotiation, the proposed settlement will be resubmitted to the Board. Proposed settlements by determination disapproved by the Board shall be returned to contracting officers for redrafting and resubmission to the Board. Except as provided in § 8.211–4 of this title contracting officers may not proceed with a proposed settlement until approval of the Settlement Review Board has been obtained.

§ 597.212 Payment.

See § 8.212 of this title.

§ 597.212–1 Partial payment upon termination.

Other means of protecting the interests of the Government in connection with partial payments, as authorized by § 8.212–1(d) of this title may be prescribed by the Head of the Procuring Activity.

§ 597.212–2 Final payment.

See §8.212–2 of this title.

§ 597.213 Cost principles applicable to the settlement of certain terminated research and development contracts.

See § 8.213 of this title.

§ 597.250 Status of terminations.

Heads of procuring activities will maintain a record of the status of each termination settlement until such action has been completed.

Subpart C—Additional Principles Applicable to the Settlement of Terminated Fixed-Price Contracts

§ 597.300 Scope of subpart.

See § 8.300 of this title.

§ 597.307 Settlement proposals.

See §8.307 of this title.

§ 597.307–1 Submission of settlement proposals.

See § 8.307–1 of this title.

§ 597.307–2 Bases for settlement proposals.

(a) Contracting officers may authorize use of the total cost basis of settlement under a complete termination where one of the following conditions exist:

(1) The only costs incurred are in the nature of initial costs;

(2) The contractor's accounting system does not lend itself to a segregation of costs between the completed and the terminated portions of the contract;

(3) A construction contract has been completely terminated;

(4) A letter contract has been completely terminated; or

(5) A contract is for a lump sum amount.

(b) The total cost basis of settlement may be used under a partial termination only if authorized by the Head of the Procuring Activity concerned. An example of a circumstance in which the total cost basis may be authorized for use under a partial termination is where the contractor's accounting system does not lend itself to a segregation of costs between the completed, continued and terminated portions of the contract and control can be exercised over the costs to be incurred on the continued portion of the contract. The settlement of a partial termination on the basis of the "total costs applicable to the terminated portions of the contract" is not a settlement on the total cost basis as in the case of paragraph (a) of this section.

(c) Where the partial termination of a contract results solely in the complete termination of a contract item under which there has been part delivery and the costs applicable to such terminated item are clearly severable from other contract costs, settlement of such partial termination may be made on the basis of the total costs applicable to such terminated item, less payments previously made, if:

(1) The contractor's accounting system does not lend itself to a segregation of costs between the completed and the terminated portion of such item; or

(2) The item is included in the contract in a lump sum amount.

Subpart D—Additional Principles Applicable to the Settlement of Terminated Cost-Reimbursement Type Contracts

(See Subpart D, Part 8 of this title.)

Subpart E—Disposition of Termination Inventory

§ 597.501 General.

See § 8.501 of this title.

§ 597.502 Contractor-acquired property; purchase or retention at cost or return to supplies.

See § 8.502 of this title.

§ 597.503 Inventory schedules.

See § 8.503 of this title.

§ 597.504 Scrap and salvage.

See § 8.504 of this title.

§ 597.504–1 General.

See § 8.504–1 of this title.

§ 597.504–2 Scrap warranty.

There shall be incorporated in the scrap warranty, by appropriate language, adequate identification and description of the material to which the scrap warranty is applicable. Where advisable for brevity or for other reasons, the identification may be accomplished by reference to appended schedules or to properly identified inventory schedules.

Subpart F—Termination for Default

§ 597.600 Scope of subpart.

See § 8.600 of this title.

§ 597.601 General.

See § 8.601 of this title.

§ 597.602 Termination of fixed-price supply contracts for default.

§ 597.602–3 Procedure for default.

(a) Contracts which involve outstanding guaranteed loans, progress payments, or advance payments may be terminated by the Head of the Procuring Activity or his authorized representative after coordination with the Chief, Contracts Branch, Office of the Deputy Chief of Staff for Logistics, Headquarters, Department of the Army, Washington 25, D.C.

(b) Contracts which involve SBA certificates of competency or SBA-participated loans may be terminated for default in accordance with procedures prescribed in § 597.705–6(c).

(c) The following procedures, prescribed by the General Services Administration, shall be followed in ter-

minating for default delivery orders placed against Federal Supply Schedule contracts.

(1) *Ordering office.* Before declaring a contractor in default, ordering offices should ordinarily notify the contractor in writing that unless satisfactory performance occurs by a specified date, which should allow a reasonable time for performance, his right to proceed further under the delivery order will be considered terminated and he will be held liable for any excess costs resulting from purchasing the supplies or services elsewhere. This step will not be taken when the default involves an attempted fraud on the United States, or when it obviously would be futile, as for example, when the contractor has already declined to perform. Where excess costs are anticipated, the ordering office may withhold sufficient funds due the contractor as offset security. Ordering offices will endeavor to minimize excess costs to be charged against the contractor and to collect, by check or setoff, excess costs owed.

(2) *Federal Supply Service.* Where ordering offices are notified by the Federal Supply Service that it has declared the contractor in default, ordering offices will thereafter refuse to accept further performance by the contractor or place further delivery orders with it. Ordering offices will thereafter purchase against the account of the contractor from replacing contractors designated by the Federal Supply Service or in such other manner as directed by the Federal Supply Service.

(3) *Notification.* Ordering offices shall furnish to the Purchase Branch, Federal Supply Service, Washington 25, D.C., the details concerning all material instances of unsatisfactory performance by the contractor, whether or not properly adjusted and settled. Ordering offices also shall report, as may be directed by the Federal Supply Service, all purchases made against the account of a contractor placed in default by the Federal Supply Service.

§ 597.603 Termination of fixed-price construction contracts for default.

§ 597.650 Completion of construction contract after default.

Where the contractor's right to proceed under a construction contract has been terminated, the contracting officer utilizing the same plans and specifications shall proceed without delay to have the work completed by the surety, or if the surety declines, by readvertisement, by negotiation with another contractor, or by Government plant and hired labor, whichever procedure is most appropriate under the circumstances. Any excess costs incurred (including liquidated or actual damages) will be deducted from any amounts due the defaulted contractor. If the amount due the defaulted contractor is insufficient to cover the excess costs, demand will be made promptly upon both the contractor and the surety for the payment thereof.

Subpart G—Clauses

§ 597.700 Scope of part.

See § 8.700 of this title.

§ 597.750 Oversea commands.

Where any provision of the "Default Clause for Fixed-Price Supply Contracts" (§ 8.707 of this title), or of the "Default Clause for Fixed-Price Construction Contracts" (§ 8.709 of this title), is inconsistent with or prohibited by local law, the clause will be amended to conform to the local law. For the purpose of this paragraph, local law is defined as the law of the foreign country or legal entity which is applicable to the execution and performance of the contracts herein.

Subpart H—Forms

(See Subpart H, Part 8 of this title.)

6. Revise §§ 598.107, 598.107–1, 598.107–2, 598.107–3, 598.157–4, 598.107–5, and 598.110 to read as follows:

§ 598.107 Patent rights.

§ 598.107–1 General.

(a) *Appropriate contracts.* The policy stated in § 9.107–1(a) of this title shall apply to any contract or modification thereof having experimental, developmental or research work as one of its purposes, irrespective of the contract designation or the source of funds involved.

(b) *Patent rights not to be obtained.* Procuring activities are not prohibited by § 9.107–2 of this title from accepting, on behalf of the Government, any gratuitous and voluntary grant of patent license rights.

§ 598.107–2 License rights; domestic contracts.

Whenever practical, the contracting officer should obtain the advice of cognizant Government patent counsel prior to excluding any inventions from the license grant in accordance with § 9.107–2(a) of this title. Any questions on the interpretation of § 9.107–2(a) of this title may be referred, through channels, to the Chief, Patents Division.

§ 598.107–3 License rights; foreign contracts.

See § 9.107–3 of this title.

§ 598.107–4 Contracts relating to Atomic Energy.

(a) Any provision to be incorporated into the Patent Rights Clause which authorizes the contractor to retain license rights, or authorizes any deviation from the Patent Rights Clause (§ 9.107–2 of this title) shall be forwarded through the Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D.C., ATTN: Chief, Contracts Branch, to the Chief, Patents Division, for referral to the U.S. Atomic Energy Commission for determination as to whether the provision or deviation may be granted.

(b) Disclosures of inventions relating to atomic energy furnished by any contractor shall be forwarded to the Chief, Patents Division, for referral to the United States Atomic Energy Commission.

§ 598.107–5 Contracts relating to Civil Defense.

The clause in § 9.107–5 of this title may be used, in lieu of subparagraph (b)(1) of the clause set forth in § 9.107–2 of this title, in all contracts for experimental, developmental, or research work relating primarily to supplies or services intended for the general public for Civil Defense purposes. This clause is particularly applicable for inclusion in contracts financed in whole or in part by the Federal Civil Defense Administration.

§ 598.110 Reporting of royalties.

(a) *Furnishing copy of reports.* The contracting officer shall furnish the Head of his Procuring Activity for transmittal directly to the Chief, Patent Division, a copy of each royalty report received in accordance with § 9.110(b) of this title which indicates that royalties in excess of $250 have been paid or are to be paid to any person or firm. In addition to the royalty report, the contracting officer also shall furnish the dollar amount and the date of the contract. These procedures shall also apply to royalty reports submitted in accordance with the prescribed contract clauses prior to October 15, 1958.

(b) *Incomplete reports.* Where a contractor presents a royalty report which, upon its face does not comply with the provisions of § 9.110 or § 9.110–2 of this title, the contracting officer shall secure from the contractor a conforming report prior to forwarding the report as provided in paragraph (a) of this section.

7. Subpart B of Part 598 is revised to read as follows:

Subpart B—Data and Copyrights

§ 598.200 Scope of subpart.

See § 9.200 of this title.

§ 598.201 Definitions.

See § 9.201 of this title.

§ 598.202 Acquisition and use of data.

See § 9.202 of this title.

§ 598.202–1 Acquisition of data.

(a) *General*—(1) *Data pricing requirements.* Where data is to be required under a contract, Invitations for Bids and Request for Proposals shall include the following clause:

DATA PRICING

Where data is specified for delivery, bidders are requested to insert opposite the data items the price of such data. If the price of the data is included in the price of the end items the statement "data price is included in the price of the end items" may be used. If the bidder does not insert the price as requested above, or inserts the words "No Charge For Data", or similar language, the Government will consider that the data price is included in the cost of the appropriate end items.

(2) *Withholding of payments.* Contracts which require the delivery of data in addition to other end items (e.g., equipment, medicines, etc.) shall contain the following provision in the Payments clause:

If the contractor fails to deliver to the contracting officer the data or any part thereof required by the Schedule there shall be withheld from payment until the contractor shall have furnished such data either ten percent (10%) of the amount of this contract, as from time to time amended, or five thousand dollars ($5,000), whichever

is less. After payment of eighty percent (80%) of the amount of this contract, as from time to time amended, payment shall be withheld until a reserve of either ten percent (10%) of such amount, or five thousand dollars ($5,000), whichever is less, shall have been set aside, such reserve or balance thereof to be retained until the contractor shall have furnished to the contracting officer the required data. The withholding of any amount or subsequent payment thereof to the contractor shall not be construed as a waiver of any rights accruing to the Government under this contract. This clause shall not be construed as requiring the contractor to withhold any amounts from a subcontractor to enforce the compliance with the data provisions of a subcontract.

(3) *Consideration of effects of obtaining data subject to limitation.* In determining whether, in accordance with § 9.202–2(b)(1) of this title, to obtain "proprietary data" subject to limitation as to its use, the contracting officer shall also take into account the impact of of the limitation upon the Government's future use of the data in (i) connection with such pertinent programs as standardization, cataloging, supply inventory control of spare and ancillary parts, (ii) the desirability of competition for production contracts, and (iii) the manufacture of the equipment or practicing of the process.

(b) *Supply contracts and subcontracts thereunder.* (1) In determining initially whether data required in supply contracts and subcontracts thereunder is "proprietary data" or "other data" the definitions of § 9.201 of this title may be applied with the assumption that "the contractor has protected such information from unrestricted use by others." (§ 9.201(b) of this title.)

(2) When it has been determined that "other data" only is involved and required, such "other data" shall be specified in the contract Schedule. This "other data" may be specified by setting forth in the schedule a general description of the required data and a reference to a suitable document.

(3) When it has been determined that "proprietary data" is involved and required, it may be acquired under negotiated supply contracts. In connection with the negotiation and pricing of such data, the mere assertion that data is "proprietary data" by a prospective contractor does not itself establish that fact. The burden rests on the prospective contractor to show that the data is "proprietary data." This burden might be satisfied by furnishing the contracting officer information requested by procurement personnel and cognizant patent personnel. In arriving at a determination whether "data" is "proprietary data" and in assessing the weight to be given a claim that data is "proprietary data," the contracting officer, as required by the Head of the Procuring Activity, shall consult with either or both (i) appropriate scientific and technical personnel, or (ii) cognizant patent personnel, who, on the basis of available information and technical advice, shall make recommendations to the contracting officer.

(4) When, in accordance with § 9.202–2(b)(1) of this title, "proprietary data" is being obtained subject to limitations as to its use, the price to be paid for such data shall reflect consideration of such limitations. If the cost of such data includes any factor relating to the cost of developing the information contained in the data, this factor should be given only limited value. Care should also be taken to avoid any duplication of cost between this factor and any element of cost in the price of any other end item called for by the contract.

(5) Unless the requirement for "proprietary data" is specified in the contract Schedule, the contractor is excused from furnishing the "proprietary data" (except when the contract has as one of its principal purposes experimental, developmental, or research work, in which case § 9.202–1(c) of this title applies), since the paragraph set forth in § 9.203–2 of this title is required to be used in such a contract and so excuses the contractor.

(6) "Proprietary data" relating to an item of equipment will have to be procured, in most instances, from the same supplier who is to furnish the equipment itself. Where an advertised contract is to be used to obtain the equipment, the contracting officer should keep in mind the relationship of that advertised contract to the negotiated contract for the "proprietary data" concerning the equipment.

(c) *Contracts for experimental, developmental, or research work and subcontracts thereunder.*—(1) *Consideration of effects of "proprietary data."* Whenever, in negotiating a contract which has as one of its principal purposes experimental, developmental, or research work and also calls for models of equipment or practical processes, the contracting officer shall, before awarding the contract to a contractor whose "proprietary data" is to be excluded in accordance with § 9.202–1(c)(2) of this title, consider the following:

(i) The impact of the exclusion of the proprietary data upon the Government's future use of the results of the contract in (*a*) connection with such programs as standardization, cataloging, supply, inventory control and ancillary parts, (*b*) the desirability of competition for production contracts, and (c) the manufacture of the equipment or practicing of the process by or for a cooperating foreign government; and if the impact is found to be serious.

(ii) The possibility of having the contractor use a design which eliminates or greatly reduces the impact or of awarding the contract to a different contractor.

(2) *Identification of exceptions to requirement for delivery of data.* Whenever, in accordance with the exceptions of § 9.202–1(c) (i) or (ii) of this title, it is known that certain portions of an item of data are not required to be delivered under the contract, these exceptions shall be identified by a note immediately after the description of the item in the Schedule substantially as follows:

NOTE. The following portions of this item, which come within the exceptions stated in §§ 9.202–1(c)(1) and 9.202–1(c)(2), are not required to be delivered under this contract:

[Here insert the identification of those portions of the item which come within these exceptions, but with the specific one of these two exceptions indicated as to each portion.]

(3) *Screening of proprietary data.* In a contract which has as one of its principal purposes experimental, developmental, or research work and also calls for models or equipment or practical processes, the substance of the following clause shall be included in the contract:

Consideration will be given by the contractor to the performance of the work called for by this contract in such manner as to produce end results that are susceptible of reproduction by or for the Government by equipment which is readily available through Government or commercial channels and by standard or proven production techniques, methods and processes. Unless approved by the contracting officer, the contractor will not knowingly, in the performance of the work called for by this contract, produce an end result requiring the details of secrets of manufacture, such as may be contained in but not limited to manufacturing methods or processes, treatment and chemical composition of materials, plant layout and tooling, to the extent that such information is not disclosed by inspection or analysis of the product itself.

§ 598.202–2 Use of data.

Policies and procedures for the use of "Data" obtained under a supply contract or a contract for experimental, developmental or research work are set forth in § 591.202–1 of this chapter and § 9.202–2 of this title.

§ 598.202–3 Multiple sources of supply.

Where arrangements for licensing and technical assistance appear to be required in establishing multiple sources of supply for domestic or foreign procurement under the provisions of § 9.202–3 (a) of this title, the contracting officer shall obtain the advice of cognizant patent personnel.

§ 598.202–6 Data furnished on a restricted basis in support of a proposal.

Where it is desired to acquire the rights to use all or part of the data furnished on a restricted basis, with the proposal on which a contract is to be awarded, the contracting officer should, in his evaluation of the data alleged to be "proprietary," and in his negotiations, follow the policies and procedures set forth in § 598.202–1(a)(1) and (b)(3) of this chapter.

§ 598.203 Contract clauses; general.

See § 9.203 of this title.

§ 598.203–1 Basic Data Clause.

The following paragraph shall be added to the Basic Data Clause (§ 9.203–1 of this title) in all cases:

The rights obtained by the Government in data furnished under this contract are set forth in this clause and nothing elsewhere in this contract or in any documents incorporated by reference shall be construed as in any way altering such rights.

§ 598.203–2 Provision for addition to basic data clause for use in supply contracts.

See § 9.203–2 of this title.

§ 598.203–3 Limited rights provision for addition to basic data clause.

Where, in accordance with § 9.202–2 (b)(1) of this title, "proprietary data"

is being obtained under a supply contract subject to limitation as to its use, each item of the data which is subject to such limitation shall be identified by a note immediately after the description of the item in the schedule substantially as follows:

NOTE: The following portions of this item are subject to the limitations stated in Article _____ "Data" of this contract: [Here insert the identification of those portions of the item which are subject to the limitations, except that if the entire item is so subject, the words "The entire item" should be inserted.]

§ 598.203–4 Provision for addition to Basic Data Clause for use in contracts for experimental, developmental, or research work.

See § 9.203–4 of this title.

§ 598.204 Contract clauses; special.

See § 9.204 of this title.

§ 598.204–1 Limitation on Government's right of publication for sale to the general public.

Under the determining criteria provided in § 9.204–1 of this title the contracting officer is given the discretion of using the paragraph in § 9.204–1 of this title in contracts for research.

§ 598.204–2 Production of motion pictures.

The clause set forth in § 9.204–2 of this title shall be used in all contracts for the production of motion pictures, with or without accompanying sound, and in all contracts for the preparation (for use in connection with motion pictures) of scripts, musical compositions, sound tracks, translations, adaptations and the like.

§ 598.205 Contracts for acquisition of existing works.

See § 9.205 of this title.

§ 598.205–1 Off-the-shelf purchase of books and similar items.

See § 9.205–1 of this title.

§ 598.205–2 Contracts for existing motion pictures.

(a) The clause set forth in § 9.204–2 of this title shall be used in all contracts for the procurement of existing motion pictures, except that the following instructions apply to the use of this clause:

(1) Paragraph (b) may be modified or omitted by the procuring activity.

(2) Paragraph (c) may be modified by the procuring activity only to the extent of limiting the scope of the license granted by this paragraph to that scope which is consistent with the purposes for which the motion picture covered by the contract is being procured. Examples of such restricted rights are:

(i) Limitation as to the type of audience;

(ii) Limitation as to the geographical location; and

(iii) Limitation as to time.

(3) Paragraph (d) may be modified by the procuring activity to make the coverage of the indemnity coextensive with the rights acquired under the modification permitted by subparagraph (2) of this paragraph.

If paragraph (b) of the clause is omitted, the references to "(c)" and "(d)" in line 1 of paragraph (f), of the clause shall be changed to read "(b)" and "(c)", respectively.

(b) The clause set forth in § 9.204–2 of this title shall be used in all contracts for the procurement of a modification (through the addition of subject matter specified by the contract and not already in existence) of an existing motion picture, except that the instructions given in paragraph (a) (2) and (3) of this section apply in this situation also.

§ 598.206 Contracts to be performed outside the United States.

See § 9.206 of this title.

8. In § 605.503–1, revise paragraph (e) and revoke paragraphs (f) and (g), as follows:

§ 605.503–1 General.

* * * * *

(e) Contracts entered into on DD Form 731 shall be numbered in accordance with § 606.203–4 of this chapter. Each job order issued under such contracts shall contain a reference to the number of the master contract under which it is issued.

(f) [Revoked]

(g) [Revoked]

9. Sections 605.852, 605.854, 605.858, 605.859, 605.860, and 605.861 are revised to read as follows:

§ 605.852 Monthly Procurement Summary by Purchasing Office (DD Form 1057).

(§ 606.304 of this subchapter.)

§ 605.854 Request for Planning Action (DD Form 403), Desired Production and Production Schedule Work Sheet (DD Form 405), and Tentative Schedule of Production and Request for Allocation (DD Form 406).

(Subpart O, Part 590 of this chapter.)

§ 605.858 Transfer of Construction (ENG Form 290).

(§ 602.1708–2 of this chapter.)

§ 605.859 Contractor's Request for Progress Payments (DD Form 1195).

(AR 715–6.)

§ 605.860 Data on Proposed Procurement Action (DA Form 1877).

(§ 590.752 of this chapter.)

§ 605.861 Department of Labor Forms PC 12 and PC 13.

(See Part 12 of this title and Part 601 of this chapter).

10. Revoke § 605.862 and revise paragraph (d) of § 606.207 to read as follows:

§ 605.862 [Revocation]

§ 606.207 Audits of Procurement Contracts by Audit Agencies; general.

* * * * *

(d) Audit of termination settlement proposals of terminated cost-type or fixed-price contracts or subcontracts thereunder shall be in accordance with the requirements of § 8.207 of this title and § 597.207 of this chapter.

[C 16, APP, April 24, 1959] (Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314)

R. V. LEE,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 59–5842; Filed, July 15, 1959; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 1897]

[82695]

WYOMING

Addition of Certain Lands to Medicine Bow National Forest

By virtue of the authority vested in the President by section 9 of the Act of June 7, 1924 (43 Stat. 655; 16 U.S.C. 471b; 505), and pursuant to Executive Order No. 10355 of May 26, 1952, and upon recommendation of the Secretary of Agriculture and the Secretary of the Air Force, it is ordered as follows:

1. The following-described public and nonpublic lands within the Francis E. Warren Air Force Base, Pole Mountain Training Annex, Wyoming (formerly Fort D. A. Russell Target and Maneuver Reservation), are hereby added to and reserved as a part of the Pole Mountain District of the Medicine Bow National Forest, established by Executive Order No. 4245 of June 5, 1925: *Provided*, That said lands shall be subject to the provisions of and be administered in the manner provided by said Executive Order No. 4245:

SIXTH PRINCIPAL MERIDIAN

T. 14 N., R. 71 W.,
Sec. 3, N½N½;
Secs. 4 and 5;
Sec. 6, NE¼.
T. 15 N., R. 71 W.,
Sec. 29, SW¼SW¼;
Sec. 30, S½SE¼;
Sec. 31, E½;
Secs. 32 and 33.

The areas described aggregate approximately 3,317 acres.

ROGER ERNST,
Assistant Secretary of the Interior,

JULY 10, 1959.

[F.R. Doc. 59–5868; Filed, July 15, 1959; 8:48 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 13—COMMERCIAL RADIO OPERATORS

Miscellaneous Amendments

The Commission having under consideration the amendment of its Commercial Radio Operator Rules; and

It appearing that the Commission discontinued the issuance of the aircraft radiotelephone operator authorization, effective February 1, 1954, and discontinued the issuance of the restricted radiotelegraph operator permit, effective September 1, 1950; and

It further appearing that the Commission discontinued the issuance of the temporary limited radiotelegraph second-class operator license, effective August 16, 1954; and

It further appearing that all licenses of the aforementioned classes which were in force on the respective discontinuance dates were issued for terms of five years and have expired or will expire on or before the effective date of this Order; and

It further appearing that Part 13 lists all other parts of the Commission's rules in which provision is made for operation of radio stations without licensed operators and that the list should be changed to reflect changes in that regard made elsewhere in the rules; and

It further appearing that the amendments herein ordered are editorial and not substantive and, therefore, compliance with the public rule-making procedures required by sections 4(a) and 4(b) of the Administrative Procedure Act is not required.

It is ordered, This 13th day of July 1959, pursuant to authority of section 0.341 of the Commission's Statement of Delegations of Authority and to authority contained in sections 4(i), 5(d)(1), 303(1), and 303(r) of the Communications Act of 1934, as amended, Part 13 of the Commission's rules, Commercial Radio Operators, is amended as set forth below effective August 16, 1959.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 301, 303, 48 Stat. 1081, 1082; 47 U.S.C. 301, 303).

Released: July 13, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

Part 13 of the Commission's rules, Commercial Radio Operators, is amended as follows:

1. Note B to § 13.1 is amended to read as follows:

§ 13.1 Licensed operators required.

* * * * *

NOTE B: Provision is made in Parts 5, 7, 8, 9, 10, 11, 16, 19, and 21 of this chapter for operation of certain radio stations without licensed operators subject to limitations and conditions specified therein.

§ 13.2 [Amendment]

2. In § 13.2, paragraph (a)(i)(iii) is deleted, paragraph (b)(1)(i) is amended to delete the parenthetical reference to the Restricted Radiotelegraph Operator Permit, and paragraph (c)(i)(ii) is deleted.

3. Section 13.3 is amended as follows:

§ 13.3 Dual holding of licenses.

A person may not hold more than one radiotelegraph operator license or permit and one radiotelephone operator license or permit at the same time.

4. Section 13.25 is amended to read as follows:

§ 13.25 New class, additional requirements.

The holder of a license, who applies for another class of license, will be required to pass only the added examination requirements for the new class of license: *Provided,* That the holder of a radiotelegraph third-class operator permit who takes an examination for a radiotelegraph second-class operator license more than one year after the issuance date of the third-class permit will also be required to pass the code test prescribed therefor: *Provided further,* That no person holding a new, duplicate, or replacement restricted radiotelephone operator permit issued on the basis of a declaration, or a renewed restricted radiotelephone operator permit which renews a permit issued upon the basis of a declaration shall, by reason of the declaration or the holding of such permit, be relieved in any respect of qualifying by examination when applying for any other class of license.

5. Section 13.28 is amended to read as follows:

§ 13.28 Renewal service requirements, renewal examinations, and exceptions.

A restricted radiotelephone operator permit normally is issued for the lifetime of the holder and need not be renewed. A temporary limited radio telegraph second-class operator license is not renewable. A license of any other class may be renewed without examination provided that the service record on the reverse side of the license (see §§ 13.91 to 13.94) shows at least two years of satisfactory service in the aggregate during the license term and while actually employed as a radio operator under that license. If this two-year renewal service requirement is not fulfilled, but the service record shows at least one year of satisfactory service in the aggregate during the last three years of the license term and while actually employed as a radio operator under that license, the license may be renewed upon the successful completion of a renewal examination, which may be taken at any time during the final year of the license term or during a one-year period of grace after the date of expiration of the license sought to be renewed. The renewal examination will consist of the highest numbered examination element normally required for a new license of the class sought to be renewed, plus the code test (if any) required for such a new license. If the renewal examination is not successfully completed before expiration of the aforementioned one-year period of grace, the license will not be renewed on any basis.

NOTE: By order dated and effective April 4, 1951, the Commission temporarily waived the requirement of prior service as a radio operator or examination for renewal in the case of any applicant for renewal of his commercial radio operator license. This order is applicable to commercial radio operator licenses which expired after June 30, 1950 until further order of the Commission.

§ 13.61 [Amendment]

6. In § 13.61, paragraph (c) is deleted and designated [Reserved] and the note to paragraph (d) is deleted.

7. Section 13.62(c) is amended to delete the reference to an aircraft radiotelephone operator authorization and a temporary limited radiotelegraph second-class operator license. As amended, that portion of paragraph (c) preceding subparagraph (1) reads as follows:

§ 13.62 Special privileges.

* * * * *

(c) The holder of a commercial radio operator license of any class may operate broadcast stations under the following conditions:

8. Section 13.94 is amended to delete the reference to a restricted radiotelegraph operator permit. As amended, that portion of § 13.94 preceding paragraph (a) reads as follows:

§ 13.94 Statement in lieu of service endorsement.

The holder of a first- or second-class radiotelegraph operator license desiring an endorsement to be placed thereon attesting to an aggregate of at least 6 months' satisfactory service as a qualified operator on a vessel of the United States may, in the event documentary evidence cannot be produced, submit to any office of the Commission a statement under oath accompanied by the license to be endorsed or the application, embodying the following:

[F.R. Doc. 59-5869; Filed, July 15, 1959; 8:48 a.m.]

Title 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

SUBCHAPTER F—ALASKA COMMERCIAL FISHERIES

PART 104—BRISTOL BAY AREA

Additional Fishing Time; Nushagak and Kvichak-Naknek Districts

Basis and purpose. On the basis of continuing heavy runs of red salmon in the Nushagak and Kvichak-Naknek districts of Bristol Bay, it has been determined that additional fishing time, over and above that already provided under § 104.9, as amended, can be permitted.

Therefore, § 104.9, as amended July 13, 1959, is further amended permitting fishing in the Nushagak district from 9 p.m. Tuesday, July 14, to 9 a.m. Wednesday, July 15, and from 9 p.m. Friday, July 17 to 9 a.m. Saturday, July 18, 1959, and in the Kvichak-Naknek district from 3 p.m. to 12 p.m. Tuesday, July 14, 1959.

Since immediate action is necessary in order to effectuate these relaxations, notice and public procedure on this amendment are not in the public interest and it shall become effective immediately upon publication in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.).

(Sec. 1, 43 Stat. 464, as amended; 48 U.S.C. 221)

Dated: July 14, 1959.

A. W. ANDERSON,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 59-5895; Filed, July 14, 1959; 1:46 p.m.]

PROPOSED RULE MAKING

FEDERAL AVIATION AGENCY

[14 CFR Parts 600, 601]

[Airspace Docket No. 59-WA-12]

FEDERAL AIRWAY, ASSOCIATED CONTROL AREAS AND COMPULSORY REPORTING POINTS

Notice of Proposed Rule Making

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Parts 600 and 601 of the regulations of the Administrator, as hereinafter set forth.

Red Federal airway No. 31 presently extends from Cheyenne, Wyo., to Huron, S. Dak., and from Minneapolis, Minn., to La Crosse, Wis. An IFR Peak-Day Airway Traffic Survey for each half of the calendar year 1958, shows aircraft movements on the segments from Cheyenne, Wyo., to Philip, S. Dak., as four and one respectively; Philip, S. Dak., to Pierre, S. Dak., zero and two respectively; Pierre, S. Dak., to Huron, S. Dak., zero and four respectively; Minneapolis, Minn., to La Crosse, Wis., zero and two respectively. On the basis of the survey, it appears that the retention of these airway segments and their associated control areas is unjustified as an assignment of airspace and that the revocation thereof would be in the public interest. If such action is taken, Red Federal airway No. 31, and the associated control areas and compulsory reporting points, would be revoked.

Interested persons may submit such written data, views or arguments they may desire. Communications should be submitted in triplicate to the Regional Administrator, Federal Aviation Agency, 4825 Troost Avenue, Kansas City 10, Missouri. All communications received within thirty days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Administrator, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Administrator.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

In consideration of the foregoing, it is proposed to amend Parts 600 and 601 (14 CFR, 1958, Supp., Parts 600, 601) as follows:

1. Section 600.231 *Red Federal airway No. 31 (Cheyenne, Wyo., to La Crosse, Wis.)* is revoked.

2. Section 601.231 *Red Federal airway No. 31 control area (Cheyenne, Wyo., to La Crosse, Wis.)* is revoked.

3. Section 601 4231 *Red Federal airway No. 31 (Cheyenne, Wyo., to La Crosse, Wis.)* is revoked.

Issued in Washington, D.C., on July 10, 1959.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-5843; Filed, July 15, 1959; 8:45 a.m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

The Federal Aviation Agency has filed an application, Serial Number A. 046352 for the withdrawal of the lands described below, from all forms of appropriation under the public land laws including the mining and mineral leasing laws. The applicant desires the land for a light aircraft parking area as an addition to the International Airport Reserve.

For a period of 60 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Anchorage Operations Office, Mailing: 334 East Fifth Avenue, Anchorage, Alaska.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

POINT CAMPBELL MILITARY RESERVE

All of Lot 8, Sec. 27, and the North 400 feet of Lot 4, Sec. 34, all in T. 13 N., R. 4 W., S.M.

Containing 50 acres, more or less.

L. T. MAIN,
Operations Supervisor,
Anchorage.

[F.R. Doc. 59-5848; Filed, July 15, 1959; 8:45 a.m.]

[Oregon 04707]

OREGON

Notice of Termination of Proposed Withdrawal and Reservation of Lands

JULY 9, 1959.

Notice of an application, Serial No. Oregon 04707, for withdrawal and reservation of lands was published as Federal Register Document No. 56-1432 on page 1244 of the issue for February 24, 1956. The applicant agency has canceled its application in its entirety. Therefore, pursuant to the regulations contained in 43 CFR Part 295, such lands will be at 10:00 a.m. on July 21, 1959, relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

WILLAMETTE MERIDIAN, OREGON

DESCHUTES NATIONAL FOREST, KLAMATH COUNTY

T. 24 S., R. 6 E.,
Sec. 2: E½SE¼SW¼, SW¼SE¼, W½SE¼SE¼;
Sec. 11: Those portions of the W½E½NE¼, W½NE¼, E½E½NW¼ lying north of the right-of-way of the Southern Pacific Railroad.

Approximately 200.00 acres.

RUSSELL E. GETTY,
Acting State Supervisor.

[F.R. Doc. 59-5849; Filed, July 15, 1959; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 8748]

AMERICAN SHIPPERS, INC.; ENFORCEMENT PROCEEDING

Notice of Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, that the hearing in the above-entitled proceeding, now assigned for July 21, 1959, is postponed to September 9, 1959, at 10:00 a.m., e.d.s.t., in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Ralph L. Wiser.

Dated at Washington, D.C., July 10, 1959.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 59-5861; Filed, July 15, 1959; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 12938; FCC 59-682]

KVFC, INC. (KVFC)

Order Designating Application for Hearing on Stated Issues

In re application of KVFC, Incorporated (KVFC), Cortez, Colorado, Docket No. 12938, File No. BP-11847; Has: 740 kc, 1 kw, Day; Requests: 740 kc, 250 w, 1 kw-LS, DA-N, U; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D.C. on the 8th day of July 1959;

The Commmission having under consideration the above-captioned and decribed application;

It appearing that except as indicated by the issues specified below, the instant applicant is legally, technically, financially, and otherwise qualified to construct and operate the instant proposal; but that on the basis of the applicant's own showing the proposed 25 mv/m contour would not encompass the principal business or factory area of Cortez, Colorado at night in accordance with § 3.188(b)(1) of the Commission rules; and

It further appearing that there is a substantial question as to whether the instant proposal represents a sound engineering proposal, since the city of Cortez is located in the area of maximum signal suppression and the main lobe of radiation is directed away from the city of Cortez; and

It further appearing that pursuant to section 309(b) of the Communications Act of 1934, as amended, the applicant was advised by letter dated May 6, 1959 of the aforementioned deficiency and that the Commission was unable to conclude that a grant of the subject application would be in the public interest; and

It further appearing that by amendment filed June 9, 1959, the applicant requested a waiver of § 3.188(b)(1) of the Commission rules on the grounds that Cortez has no factory or industrial area; that the proposal will provide a 25 mv/m contour over part (25 percent) of the principal business area and a 17 mv/m contour over the entire business area; and that the proposal would provide the first primary nighttime service to the city of Cortez; but, that, on the basis of the information before it, the Commission is unable to determine at this time whether circumstances exist which would warrant a grant of a waiver of said section; and

It further appearing that after consideration of the foregoing and the applicant's reply, the Commission is still unable to make the statutory finding that a grant of the application would serve the public interest, convenience and necessity; and is of the opinion that the application must be designated for hearing on the issues specified below:

It is ordered, That pursuant to section 309(b) of the Communications Act of 1934, as amended, the application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of Station KVFC and the availability of other primary service to such areas and populations.

2. To determine whether the proposed 25 mv/m contour would encompass the principal business area of the city of Cortez in accordance with the requirements of § 3.188(b)(1) of the Commission rules, and, if not, whether circumstances exist which would warrant a waiver of said section.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the instant application would serve the public interest, convenience and necessity.

It is further ordered, That, to avail itself of the opportunity to be heard, the applicant herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

Released: July 13, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-5870; Filed, July 15, 1959; 8:48 a.m.]

[Docket No. 12939; FCC 59-683]

WPGC, INC. (WPGC)

Order Designating Application for Hearing on Stated Issues

In re application of WPGC, Inc. (WPGC), Morningside, Maryland, Docket No. 12939, File No. BML-1790; Has: 1580 kc, 10 kw, DA-D; Requests: Change of station location to Washington, D.C.; for modification of license.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 8th day of July 1959;

The Commission having under consideration the above-captioned and described application;

It appearing that except as indicated by the issues specified below, the applicant is legally, technically, financially and otherwise qualified to operate its instant proposal, but that the proposal would not provide a 25 mv/m contour over the main business area, and a 5 mv/m contour over the most distant residential section of Washington, D.C., as required by § 3.188(b) (1) and (2) of the Commission rules; and

It further appearing that pursuant to section 309(b) of the Communications Act of 1934, as amended, the instant applicant was advised by letter dated March 16, 1959, of the aforementioned deficiencies and that the Commission was unable to conclude that a grant of the application would be in the public interest; and

It further appearing that a timely reply to the Commission's letter was received from the applicant, who contends that the standards of allocation of § 3.182(f) of the Commission's rules are applicable to the instant proposal rather than the provisions of § 3.188(b) (1) and (2), but applicant requests a waiver of the latter rule if it is applicable; and

It further appearing that the Memorandum of Law submitted with the application refers to § 3.188 of the rules as being entirely inapplicable to the instant application for a change of main studio and that the provisions of § 3.182 of the rules should be determinate; but that, It is obvious that the pleading indicates confusion relative to the requirements of the two rules; that § 3.182 defines the level of signal necessary to provide primary service over areas of varying population density; that, however, § 3.188 of the rules seeks to provide a "premium" type of service under extreme operating conditions of interference; and that the Commission records are replete with instances where § 3.188 of the rules is dominant in determining signal requirements over the community with which a station desires identification; and

It further appearing that after consideration of the foregoing, the Commission is of the opinion that a hearing on the instant application is necessary;

It is ordered, That, pursuant to section 309(b) of the Communications Act of 1934, as amended, the said application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether the operation as proposed would provide the coverage of the city sought to be served, as required by § 3.188(b) (1) and (2) of the Commission's rules, and, if not, whether circumstances exist which would warrant a waiver of said section.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issue, whether a grant of the application would serve the public interest, convenience and necessity.

It is further ordered, That to avail itself of the opportunity to be heard, the applicant herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

Released: July 13, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-5871; Filed, July 15, 1959; 8:48 a.m.]

[Docket Nos. 12697, 12698; FCC 59-676]

CONTINENTAL BROADCASTING CORP. (WHOA) AND JOSE R. MADRAZO

Memorandum Opinion and Order Amending Issues

In re application of Continental Broadcasting Corporation (WHOA), San Juan, Puerto Rico, Docket No. 12697, File No. BP-10489; Jose R. Madrazo, Guaynabo, Puerto Rico, Docket No. 12698, File No. BP-11480; for construction permit.

1. There are before the Commission for consideration (1) a petition to enlarge the issues filed by Jose R. Madrazo (Madrazo), December 29, 1958; (2) an opposition to the above petition filed by Continental Broadcasting Corporation (WHOA), January 8, 1959; (3) a petition by the Commission's Broadcast Bureau (Bureau) to accept late filing of a reply, filed January 12, 1959; [1] (4) a reply by the Bureau to the petition to enlarge issues, filed January 12, 1959; (5) a reply to the WHOA opposition filed by Madrazo, January 15, 1959; and (6) other matters of record herein.

2. By Order released December 9, 1958 (FCC 58-1156), the Commission designated for hearing in a consolidated proceeding the mutually exclusive applications of Madrazo and WHOA on issues which inquire (1 & 2) as to the areas and populations expected to gain or lose primary service under the proposals and the availability of other such service; (3) the applicability of section 307 (b) considerations and, if applicable, whether a grant to one or the other of the applicants can be made; (4) if a choice between the applicants cannot be made under section 307(b), then, which of the applicants should be preferred on a comparative basis; and (5) the ultimate issue as to which application should be granted. WHOA proposes to change its facilities from operation on 1400 kc with a power of 250 watts to operation on 870 kc with a power of 5 kw. Madrazo proposes a new station to operate on 860 kc with a power of 500 watts.

3. By his petition, Madrazo would have the following issues added to the present hearing issues:

(a) To determine whether or not Continental Broadcasting Corporation (WHOA) is financially qualified to construct and operate the proposed station.

(b) To determine whether or not the transmitter and antenna site specified by Continental Broadcasting Corporation (WHOA) will be available to it for construction and operation of the station as proposed.

(c) To determine whether or not Continental Broadcasting Corporation (WHOA) had misrepresented to the Commission or concealed from the Commission material facts concerning the availability of the site proposed for the location of the transmitter and antenna of the station, and whether or not the applicant's intentions as to the location of its transmitter and antenna for the proposed station have been candidly and fully presented to the Commission.

(d) To determine the areas and populations which may be expected to gain or lose primary service from the operation of Station WHOA on its present frequency, 1400 kc, with a power of 1 kilowatt, and whether, in the light of such evidence, considerations with respect to section 307(b) of the Communications Act of 1934, as amended, indicate that a more fair, efficient and equitable distribution of radio service to San Juan and to Guaynabo will be accomplished by a grant of the application of Jose R. Madrazo.

4. In support of requested issue (a), Madrazo alleges in substance that a proposed $25,000 loan from Mrs. Anthony (Carmina Mendez) [2] to WHOA, is not a firm loan arrangement because by its terms it is "due on or before five years from date of making the loan;" that Carmina Mendez's ability to make the loan has not been properly established in accordance with applicable Commission rules and requirements; that because of other financial commitments, WHOA will be unable to utilize its present funds and future profits for its instant proposal; and that for the foregoing reasons, the original finding that WHOA is financially qualified is erroneous. It is added that WHOA has not in its financial showing allowed for expenses to procure a new antenna and transmitter site which, according to Madrazo, will be necessary.[3]

5. In support of the issues requested as to site availability and misrepresentation (requested issues (b) and (c)), Madrazo, alleges that correspondence which he had with the lessor of WHOA's present and proposed site indicates that WHOA may be required to vacate the premises because of a contemplated land development program. Madrazo surmises that WHOA may have known of this fact and yet did not divulge it to the Commission. Citing Hall v. FCC,[4] Madrazo contends that it is misrepresentation for an applicant not to disclose "any mental reservations" concerning his site proposal.

6. Urging that a move by WHOA to a frequency and power other than that specified in its proposal would be feasible and would make possible a grant of both applications and implementation of a sound allocation policy, Madrazo also requests the addition of issue(d). In support of this request, Madrazo cites Wayne M. Nelson 16 RR 103 (1957), wherein an issue was added relative to a suggested alternate antenna proposal, and argues that it is possible to distinguish and reconcile therewith those holdings wherein the Commission refused to consider alternate proposals, e.g., Broadcasters, Inc., 16 RR 305 (1958).

7. As indicated by WHOA's application, the loan from Carmina Mendez represents a very substantial part of WHOA's financial plan. The showing as to her ability to make this loan is limited to her letter to WHOA in which she merely states "At the present time, I have in my own name liquid assets worth in excess of twenty-five thousand dollars * * * over and above all liabilities." A more detailed statement as to her financial situation is essential to support a finding that she is able to fulfill her commitment. Hence, a financial qualification issue will be added as to WHOA.

8. We do not, however, share Madrazo's view relative to requested issues (b), (c) and (d). Madrazo has shown no more than a bare possibility that WHOA's site will be unavailable. Indeed, as the letter from WHOA's lessor indicates, there has been no definite decision made for the development of the site for other purposes. According to the affidavit by WHOA's former president (Anthony), the site will be available for at least several years. All that can be deduced from the pleadings is that the site is presently available, which is of prime importance, and that as yet there is no certainty that the site will be subject to a development project and consequently unavailable to WHOA. Hence, the requested misrepresentation issue will be denied.

9. Madrazo's reliance on Wayne M. Nelson, supra, as authority for the inclusion of an issue regarding alternate facilities is misplaced. In Nelson, unlike the instant situation, an existing service would be protected through adoption of an alternate proposal. Where, however, as in the instant proceeding, there was no showing that an existing service would be protected through the adoption of an alternate proposal, we have denied requests for the addition of an issue similar to that requested by Madrazo. See In re Broadcasters, Inc., supra.

Accordingly, it is ordered, This 8th day of July 1959, that the petition of the Commission's Broadcast Bureau filed January 12, 1959, for acceptance of late filing is granted; that the petition to enlarge the issues filed herein by Jose R. Madrazo on December 29, 1958, is granted to the extent indicated herein and is in all other respects denied; and that the issues in this proceeding are amended to renumber Issues 1, 2, 3, 4,

[1] The Bureau states that its late filing was due to its misapprehension that Madrazo's petition to enlarge was filed by mail and not in person. No opposition has been filed to the Bureau's petition for acceptance of late filing, and it does not appear that a late filing of its reply would be prejudicial to any of the parties. Its petition will therefore be granted.

[2] Since the filing of the WHOA application Mrs. Anthony (hereinafter referred to as Carmina Mendez) has divorced William R. Anthony, the original owner of WHOA. By virtue of a property settlement effectuated pursuant thereto, Mrs. Anthony has become the sole owner of WHOA. WHOA's loan proposal remains unchanged, however. WHOA's application for transfer of ownership has previously been approved, and there is pending WHOA's petition for leave to amend its application to reflect the change in ownership.

[3] This last allegation is directed to the sufficiency of WHOA's funds. The Commission, in its order designating the subject application for hearing (FCC 58-1156), authorized the Examiner to add an issue which would inquire into the sufficiency of WHOA's funds.

[4] 237 F. 2d 567, 14 RR 2009 (1956); 257 F. 2d 626, 17 RR 2038 (1958).

and 5 as Issues 2, 3, 4, 5, and 6, and to include Issue 1, the following:

1. To determine whether or not Continental Broadcasting Corporation (WHOA) is financially qualified to construct and operate the proposed station.

Released: July 10, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-5872; Filed, July 15, 1959; 8:49 a.m.]

[Docket Nos. 12900, 12901; FCC 59M-884]

JOHN LAURINO AND CAPITAL BROADCASTING CO. (WNAV)

Order for Prehearing Conference

In re applications of John Laurino, Ashland, Virginia, Docket No. 12900, File No. BP-12112; The Capital Broadcasting Company (WNAV), Annapolis, Maryland, Docket No. 12901, File No. BP-12773; for construction permits for standard broadcast stations.

A prehearing conference in the above-entitled proceeding will be held on Wednesday, July 15, 1959, beginning at 10:00 a.m. in the offices of the Commission, Washington, D.C. This conference is called pursuant to the provisions of § 1.111 of the Commission's rules and the matters to be considered are those specified in that section of the rules.

It is so ordered, This the 8th day of July 1959.

Released: July 10, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-5873; Filed, July 15, 1959; 8:49 a.m.]

[Docket Nos. 12666-12668; FCC 59M-885]

PUBLIX TELEVISION CORP. ET AL.

Order Scheduling Prehearing Conference

In re applications of Publix Television Corporation, Perrine, Florida, Docket No. 12666, File No. BPCT-2393; South Florida Amusement Co., Inc., Perrine, Florida, Docket No. 12667, File No. BPCT-2410; Coral Television Corporation, South Miami, Florida, Docket No. 12668, File No. BPCT-2493; for construction permits for television broadcast stations.

It is ordered, This 9th day of July 1959, that a further prehearing conference will be held in the above-entitled proceeding on Thursday, July 23, 1959 at 10:00 a.m. in the offices of the Commission, Washington, D.C.

Released: July 10, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-5874; Filed, July 15, 1959; 8:49 a.m.]

[Docket No. 12782; FCC 59M-882]

STUDY OF RADIO AND TELEVISION NETWORK BROADCASTING

It is ordered, This 9th day of July 1959, that a session of the above-entitled proceeding will be convened in the Offices of the Commission, Washington, D.C., at 10 a.m., July 21, 1959, and that the following persons shall attend the said session and give evidence and supply information pertinent to the inquiry:

Charles B. Ryan—Director of Merchandising and Advertising, The Firestone Tire and Rubber Company, Akron 17, Ohio.

Alfred J. McGinness—Manager of National Advertising, The Firestone Tire and Rubber Company, Akron 17, Ohio.

Joseph H. Thomas—Vice-President and General Counsel, The Firestone Tire and Rubber Company, Akron 17, Ohio.

Howard Barlow—Lower Shad Road, Pound Ridge, New York.

Released: July 9, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-5875; Filed, July 15, 1959; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Project No. 2264]

CHATANIKA POWER CO., INC.

Notice of Application for License

JULY 10, 1959.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Chatanika Power Company, Inc., of Fairbanks, Alaska, for license for a hydroelectric development, designated as Project No. 2264, to be constructed on the Chatanika River and affecting lands of the United States, in the Fourth Judicial Division of the State of Alaska.

The project will be a redevelopment of Davidson Ditch, which consists of a 46-mile earth canal, a diversion dam, headworks, siphons, easements, water rights, several hundred acres of patented lands and 23.5 miles of 33 KV transmission line—facilities which have heretofore been used by United States Smelting Refining & Mining Company for its placer mining operations and which were constructed by Fairbanks Exploration Company in 1925-28. The project will consist of the existing canal; two penstocks 30 inches in diameter and 50 feet long, leading from the existing Chatanika siphon; a powerhouse containing a 6,700 horsepower (6,250 KVA 0.9PF) generating unit; a substation; 26.23 miles of transmission line; a tailrace and other appurtenant facilities.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day on which protests or petitions may be filed is August 24, 1959. The application is on file with the Commission for public inspection.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59-5844; Filed, July 15, 1959; 8:45 a.m.]

[Docket No. G-18280]

PLATEAU NATURAL GAS CO.

Notice of Application

JULY 10, 1959.

Take notice that Plateau Natural Gas Company (Plateau), a Colorado corporation, address P.O. Box 1219, Colorado Springs, Colorado, filed on April 9, 1959, an application, which was supplemented on May 11, 1959, for an order of the Commission directing Colorado Interstate Gas Company to establish a physical connection of its transportation facilities with proposed facilities of and sell natural gas to Plateau for distribution in the Black Forest area, in El Paso County, Colorado.

Plateau desires to secure gas immediately from Colorado Interstate Gas Company and estimates that by 1962 for this area its annual requirements will be 90,019 Mcf with a maximum day requirement of 945 Mcf.

The estimated cost of the distribution system is $171,982, to be financed from funds on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) on or before August 10, 1959. The application is on file with the Commission for public inspection.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59-5845; Filed, July 15, 1959; 8:45 a.m.]

[Docket No. G-17859]

WESTERN KENTUCKY GAS CO.

Notice of Application

JULY 10, 1959.

Take notice that Western Kentucky Gas Company (Applicant), a Delaware corporation with its principal place of business in Owensboro, Kentucky, filed an application on February 17, 1959, which was supplemented on March 9, 1959, pursuant to section 7(a) of the Natural Gas Act for an order directing Texas Gas Transmission Corporation (Texas Gas) to establish an additional physical connection of its transmission system with the facilities of Western, and to sell natural gas to enable Western to render natural gas service in the community of Symsonia, Kentucky, as more fully described in the application and supplement thereto, which are on file with the Commission and open to public inspection.

The application states that the town of Symsonia consists of about 128 resi-

dences and small commercial establishments. Western proposes to construct and operate a natural gas distribution system in the town which is about four miles from the Texas Gas main 26 inch pipeline. Applicant states it will construct and operate the line connecting Texas Gas System to Symsonia.

Facilities are stated principally to consist of 28,500 feet of 2-inch pipeline, and are estimated to cost $60,000 of which the residents of Symsonia have agreed to provide $34,000. The balance of $26,000 is to be paid by Western through retained earnings and short term bank loans.

Applicant estimates the natural gas requirement in Symsonia as follows:

Year of service	Number of customers	Peak day	Annual
1	64	126	8,844
2	84	166	11,577
3	100	198	13,788
4	116	230	16,119
5	128	255	17,928

On March 17, 1959, Texas Gas advised the Commission by its answer to Western Kentucky's proposal that it had no objection to rendering the service upon the terms and conditions set forth in the answer.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before August 17, 1959.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59-5846; Filed, July 15, 1959; 8:45 a.m.]

[Project No. 2197]

YADKIN, INC.

Notice of Application for Amendment of License

JULY 10, 1959.

Public notice is hereby given that Yadkin, Inc., of Badin, North Carolina, has filed application under the Federal Power Act (16 U.S.C. 791a–825r) for amendment of the license for water-power Project No. 2197, located on the lower Yadkin stretch of the Yadkin-Pee Dee River in Stanly, Montgomery, Davidson, and Rowan Counties, North Carolina, to exclude therefrom Article 27 which requires the filing of an application for amendment of the license for the project to include therein the proposed Tuckertown-Badin transmission line or lines.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last date upon which protests or petitions may be filed is August 10, 1959. The application is on file with the Commission for public inspection.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59-5847; Filed, July 15, 1959; 8:45 a.m.]

[Docket No. G-18913]

ATLANTIC REFINING CO.

Order for Hearing and Suspending Proposed Changes in Rates

JULY 9, 1959.

On June 12, 1959, The Atlantic Refining Company (Atlantic) tendered for filing proposed changes in its presently filed rate schedules and Notices of Changes thereto, dated May 14, 1959, for jurisdictional sales of natural gas to El Paso Natural Gas Company (El Paso). The proposed changes, which constitute increased rates and charges effective July 13, 1959,[1] are contained in the following designated filings:

Rate schedule designations:

(1) Supplement No. 3 to Atlantic's FPC Gas Rate Schedule No. 11.[2]

(2) Supplement No. 5 to Atlantic's FPC Gas Rate Schedule No. 15.[3]

(3) Supplement No. 4 to Atlantic's FPC Gas Rate Schedule No. 17.[3]

(4) Supplement No. 6 to Atlantic's FPC Gas Rate Schedule No. 18.[3]

(5) Supplement No. 4 to Atlantic's FPC Gas Rate Schedule No. 19.[3]

(6) Supplement No. 10 to Atlantic's FPC Gas Rate Schedule No. 20.[3]

(7) Supplement No. 6 to Atlantic's FPC Gas Rate Schedule No. 26.[4]

(8) Supplement No. 17 to Atlantic's FPC Gas Rate Schedule No. 28.[4]

(9) Supplement No. 8 to Atlantic's FPC Gas Rate Schedule No. 29.[5]

(10) Supplement No. 2 to Atlantic's FPC Gas Rate Schedule No. 139.[6]

In support of each of the proposed ten favored-nation increases, Atlantic cites the favored-nation provisions of the contracts, and states that the contracts were negotiated at arm's-length; the favored-nation pricing arrangement permits initial delivery at a price lower than the contemplated average price for the life of the contract; and such arrangement is economically desirable and in the public interest.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonabe, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the designated supplements to Atlantic's FPC Gas Rate Schedules be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in the designated supplements to Atlantic's FPC Gas Rate Schedules.

(B) Pending hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until December 13, 1959, and thereafter until such further time as each is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedules sought to be altered thereby shall be changed until the proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59-5862; Filed, July 15, 1959; 8:47 a.m.]

[Docket No. G-18259]

KIRBY PETROLEUM CO.

Notice of Application and Date of Hearing

JULY 10, 1959.

Take notice that on April 6, 1959, Kirby Petroleum Company (Applicant) filed in Docket No. G-18259 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon natural gas service to Tennessee Gas Transmission Company (Tennessee) from the R. E. Foster Lease in the East Gohlke Field, Victoria County, Texas, covered by a gas sales contract dated April 11, 1955, between Kirby Oil and Gas Company, Applicant's predecessor in interest, and Tennessee, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

[1] The stated effective date is the date proposed by Atlantic.

[2] Rate in effect subject to refund in Docket No. G-16467 (Supp. No. 2). (Also subject to order in Docket No. G-14250.)

[3] Rate in effect subject to refund in Docket No. G-14250 (Supp. No. 4; 3; 5; 3; and 8 to Atlantic's FPC Gas Rate Schedules Nos. 15; 17; 18; 19 and 20, respectively).

[4] Rate in effect subject to refund in Docket No. G-14036 (Supp. No. 5 and 14 to Atlantic's FPC Gas Rate Schedules Nos. 26 and 28, respectively).

[5] Rate in effect subject to refund in Docket No. G-14250 (Supp. No. 7).

[6] Rate in effect subject to refund in Docket No. G-13980 (Supp. No. 1).

Applicant states that the reservoir from which production was being obtain has become depleted and that the well on said lease has been plugged and abandoned.

The subject service was originally authorized to Applicant's predecessor on June 25, 1956, in Docket No. G–7182 (Docket Nos. G–6366, et al.).

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on August 13, 1959, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and Procedure (18 CFR 1.8 or 1.10) on or before August 5, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59–5863; Filed, July 15, 1959; 8:47 a.m.]

[Docket No. G–13911, etc.]

MOUND CO. ET AL.

Order For Hearings and Suspending Proposed Changes in Rates[1]

JULY 9, 1959.

In the matters of Mound Company, et al., Docket No. G–18911; Edwin L. Cox, Docket No. G–18912; J. C. Means, Jr., et al., Docket No. G–18914.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for their sales of natural gas subject to the jurisdiction of the Commission. The proposed changes are designated as follows:

Docket No.	Respondent	Rate sched. No.	Supp. No.	Purchaser	Notice of change dated—	Date tendered	Effective date unless suspended	Date suspended until—
G–18911	Mound Company, et al.	16	6	Tennessee Gas Transmission Co.	6–10–59	6–11–59	[1] 7–12–59	12–12–59
G–18911	Mound Company, et al.	12	9	Tennessee Gas Transmission Co.	6–12–59	6–15–59	[1] 7–16–59	12–16–59
G–18912	Edwin L. Cox	20	3	Kansas-Nebraska Natural Gas Co., Inc.	6–10–59	6–12–59	[2] 7–13–59	12–13–59
G–18914	J. C. Means, Jr., et al.	1	2	Texas Gas Corporation.	6–10–59	6–15–59	[1] 7–16–59	12–16–59

[1] The stated effective date is the first day after expiration of the required thirty days' notice.
[2] The stated effective date is that proposed by Edwin L. Cox.

In support of the two proposed redetermination rate increases, Mound Company et al. states that the increases are necessary to help offset increased operating expenses and to encourage exploration and development.

Edwin L. Cox, in support of the proposed periodic increase, states that the contract was negotiated at arm's length and that the pricing provisions represent the negotiated contract price.

In support of the proposed redetermination rate increase, J. C. Means, Jr., et al. cites the redetermination clause of the contract and states that the contract was negotiated at arm's length and to disallow the proposed rate would constitute taking seller's property without due process of law.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed increased rates and charges contained in the above-designated supplements.

(B) Pending hearings and decisions thereon, Supplement No. 6 to Mound Company, et al.'s FPC Gas Rate Schedule No. 16 is hereby suspended and the use thereof deferred until December 12, 1959; Supplement No. 9 to Mound Company, et al.'s FPC Gas Rate Schedule No. 12 is hereby suspended and the use thereof deferred until December 16, 1959; Supplement No. 3 to Edwin L. Cox's FPC Gas Rate Schedule No. 20 is hereby suspended and the use thereof deferred until December 13, 1959; Supplement No. 2 to J. C. Means, Jr., et al.'s FPC Gas Rate Schedule No. 1 is hereby suspended and the use thereof deferred until December 16, 1959; each of the aforementioned supplements shall remain suspended until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59–5864; Filed, July 15, 1959; 8:48 a.m.]

[Docket No. G–18114]

RAYVILLE NATURAL GAS CO., INC.

Notice of Application and Date of Hearing

JULY 10, 1959.

Take notice that on March 18, 1959, Rayville Natural Gas Company, Inc., Operator (Applicant) filed in Docket No. G–18114 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon natural gas service to Trunkline Gas Company (Trunkline) from certain wells located in the Rayville Field, Richland Parish, Louisiana, covered by a gas sales contract dated August 1, 1957, between Trunkline and W. H. Eddins, S. N. Cerniglia and Ines Gunter, (predecessors of Applicant), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant succeeded to the basic sales contract by instrument of assignment dated April 1, 1958, and said contract is presently on file with the Commission as Rayville Natural Gas Company, Inc., (Operator) et al., FPC Gas Rate Schedule No. 1.

Applicant states that the increase of salt water has made commercial production of gas impossible and that the drilling of new wells is unwarranted because of the presence of salt water.

[1] This order does not provide for the consolidation for hearing or disposition of the separately docketed matters covered herein, nor should it be so construed.

Applicant's notice to Trunkline of cancellation has been designated as Supplement No. 4 to Rayville Natural Gas Company, Inc. (Operator) et al., FPC Gas Rate Schedule No. 1.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on August 18, 1959, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before August 7, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59-5865; Filed, July 15, 1959; 8:48 a.m.]

[Docket No. G-16602]

UNION OIL COMPANY OF CALIFORNIA

Order for Hearing, Suspending Proposed Change in Rate and Allowing Changed Rate To Become Effective

JULY 9, 1959.

Union Oil Company of California (Union), on June 9, 1959, tendered for filing a proposed change in its presently effective rate schedule [1] for sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated June 8, 1959.

Purchaser: Tennessee Gas Transmission Co.

Rate schedule designation: Supplement No. 6 to Union's FPC Gas Rate Schedule No. 7.

Effective date: July 10, 1959 (effective date is the first day after the required thirty days' notice).

The subject filing provides for the change in Louisiana taxes from gathering to severance tax and reflects Union's interpretation of the tax clause of the basic contract. The purchaser has protested this interpretation. Moreover, the present rates sought to be changed have been suspended and are in effect subject to refund.[1]

The increased rate and charge so proposed have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that the above-designated supplement be suspended and the use deferred as hereinafter ordered.

(2) It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act that the proposed rate be made effective as hereinafter provided and that Union be required to file an undertaking as hereinafter ordered and conditioned.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 6 to Union's FPC Gas Rate Schedule No. 7.

(B) Pending the hearing and decision thereon, the supplement is hereby suspended and the use thereof deferred until July 11, 1959, and thereafter until such further time as it is made effective in the manner hereinafter prescribed.

(C) The rate, charge, and classification set forth in the above-designated supplement shall be effective on July 11, 1959: *Provided, however,* That within 20 days from the date of this order Union shall execute and file with the Secretary of the Commission the agreement and undertaking described in paragraph (E) below.

(D) Union shall refund at such times and in such amounts to the persons entitled thereto, and in such manner as may be required by final order of the Commission, the portion of the increased rates found by the Commission in this proceeding not justified, together with interest thereon at the rate of six percent per annum from the date of payment to Union until refunded; shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the increased rate or charge allowed by this order to become effective, for each billing period, specifying by whom and in whose behalf such amounts were paid; and shall report (original and one copy), in writing and under oath, to the Commission monthly, or quarterly if Union so elects, for each billing period, and for each purchaser, the billing determinants of natural gas sale to such purchasers and the revenues resulting therefrom, as computed under the rates in effect immediately prior to the date upon which the increased rate allowed by this order becomes effective, and under the rate allowed by this order to become effective, together with the differences in the revenues so computed.

(E) As a condition of this order, within 20 days from the date of issuance hereof, Union shall execute and file in triplicate with the Secretary of the Commission its written agreement and undertaking to comply with the terms of paragraph (D) hereof, as follows:

Agreement and Undertaking of Union Oil Company of California To Conform With the Terms and Conditions of Paragraph (D) of Federal Power Commission's Order Making Effective Proposed Rate Changes

In conformity with the requirements of the order issued July 9, 1959, in Docket No. G-16602, Union Oil Company of California hereby agrees and undertakes to comply with the terms and conditions of paragraph (D) of said order, and has caused this agreement and undertaking to be executed and sealed in its name by its officers, thereupon duly authorized in accordance with the terms of the resolution of its board of directors, a certified copy of which is appended hereto this -------- day of ---------.

UNION OIL COMPANY
OF CALIFORNIA,
By ----------

Attest:

As a further condition of this order Union shall file with said agreement and undertaking a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless Union is advised to the contrary within 15 days after the date of filing such agreement and undertaking, the agreement and undertaking shall be deemed to have been accepted.

(F) If Union shall, in conformity with the terms and conditions of paragraph (D) of this order, make the refunds as may be required by order of the Commission, the undertaking shall be discharged; otherwise, it shall remain in full force and effect.

(G) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(H) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR, 1.8 and 1.37(f)).

By the Commission.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59-5866; Filed, July 15, 1959; 8:48 a.m.]

[1] Supplement No. 4 to Union's FPC Gas Rate Schedule No. 7 previously suspended in this docket and presently in effect subject to refund.

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

DEPUTY REGIONAL ADMINISTRATOR, REGION II (PHILADELPHIA)

Delegation of Authority To Serve as Acting Regional Administrator

The Deputy Regional Administrator of the Housing and Home Finance Agency, Region II, Philadelphia, Pennsylvania, is hereby authorized during the vacancy in the position of Regional Administrator, Region II, to serve as Acting Regional Administrator and to take all actions authorized to be taken by the Regional Administrator with respect to matters within Region II, Philadelphia, Pa.

(Reorg. Plan 3 of 1947, 61 Stat. 954 (1947); 62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U.S.C., 1952 ed. 1701c; Reorg. Order 1, 19 F.R. 9303-5 (Dec. 29, 1954))

Effective as of the 7th day of July 1959.

[SEAL] NORMAN P. MASON,
Housing and Home Finance Administrator.

[F.R. Doc. 59-5867; Filed, July 15, 1959; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-2645]

F. L. JACOBS CO.

Order Summarily Suspending Trading

JULY 10, 1959.

I. The common stock, $1.00 par value, of F. L. Jacobs Co. is registered on the New York Stock Exchange and admitted to unlisted trading privileges on the Detroit Stock Exchange, national securities exchanges, and

II. The Commission on February 11, 1959 issued its order and notice of hearing under section 19(a)(2) of the Securities Exchange Act of 1934 to determine at a hearing beginning March 16, 1959 whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months, or to withdraw, the registration of the capital stock of F. L. Jacobs Co. on the New York Stock Exchange and Detroit Stock Exchange for failure to comply with section 13 of the Act and the rules and regulations thereunder.

On June 30, 1959, the Commission issued its order summarily suspending trading of said securities on the exchanges pursuant to section 19(a)(4) of the Act for the reasons set forth in said order to prevent fraudulent, deceptive or manipulative acts or practices for a period of ten days ending July 10, 1959.

III. The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on the New York Stock Exchange and Detroit Stock Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the further opinion that such suspension is necessary in order to prevent fradulent, deceptive or manipulative acts or practices, trading in the stock of F. L. Jacobs Co. will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule 240.15c2-2 (17 CFR 240.15c2-2) thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of such security, otherwise than on a national securities exchange.

It is ordered, Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934 that trading in said security on the New York Stock Exchange and Detroit Stock Exchange be summarily suspended in order to prevent fradulent, deceptive or manipulative acts or practices, this order to be effective for a period of ten (10) days, July 11, 1959 to July 20, 1959, inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 59-5850; Filed, July 15, 1959; 8:46 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 30-V-1 (Revision 1), Amdt. 2]

CHIEF, FINANCIAL ASSISTANCE DIVISION

Delegation Relating To Financial Assistance Functions

Delegation of Authority No. 30-V-1 (Revision 1), as amended, (23 F.R. 3085, 24 F.R. 3554) is hereby further amended by deleting Part II in its entirety and substituting the following in lieu thereof:

II. The specific authority in subsections I.A 5, 13, 14 (a) through (e), 15 (c), (d), (h) and (i), 16 (e) through (h), 17 through 22, 26, 27 may not be redelegated.

Dated: April 20, 1959.

JAMES F. HOLLINGSWORTH,
Regional Director, Region V, Atlanta, Ga.

[F.R. Doc. 59-5851; Filed, July 15, 1959; 8:46 a.m.]

[Delegation of Authority 30-V-10 (Revision 1)]

CHIEF, LOAN ADMINISTRATION SECTION

Delegation Relating to Financial Assistance Functions

1. Pursuant to the authority delegated to the Chief, Financial Assistance Division, by Delegation of Authority No. 30-V-1 (Revision 1), as amended (23 F.R. 3085, 24 F.R. 3554), and further amended April 20, 1959, there is hereby redelegated to the Chief, Loan Administration Section, the following authority:

A. *Specific—Financial assistance.* To take the following actions in accordance with the limitations of such delegations set forth in SBA-500, Financial Assistance Manual, in the administration, collection, and orderly liquidation of all business and disaster loans, except those classified as "problem loans" or "in liquidation";

1. Approve, after partial or final disbursement, the salary of new employees, not to exceed $10,000 per annum.

2. Extend to the maturity of a loan or to a date prior to the maturity, one monthly principal payment in any calendar year, and not more than a total of four such payments during the term of the loan or one quarterly principal installment payment during the term of the loan, for loans with principal balances not exceeding $100,000.

3. Carry loans which are delinquent or past-due in such status for not more than three (3) months.

4. Waive amounts due under net earnings clause.

5. Approve requests to exceed fixed assets limitations and waive violations of this limitation.

6. Approve payment of cash or stock dividends, payment of bonuses, increases in salaries, employment of new personnel and waivers of violation of salary and bonus limitations, provided the Chief, Loan Administration Section considers the bonuses and/or salary to be paid reasonable, and any such payment will not impair the borrower's cash position and the loan is current in all respects at the time payment is made.

7. Approve or reject substitutions of accounts receivable and inventories.

8. Release or consent to the release of inventories, accounts receivable, cash collateral or other personal property, held as collateral on loan, including the release of all collateral when loan is paid in full.

9. Release dividends on life insurance policies held as collateral for loans, approve the application of same against premiums due; release or consent to the release of insurance funds covering loss or damage to property securing the loans and to surrender expired hazard insurance policies.

10. Release, or approve the release of, real or personal property securing a loan for the purpose of sale, provided the sale proceeds are applied as a principal payment on the loan in inverse order of maturity; release or approve the release of machinery and equipment, furniture and fixtures, securing a loan for the purpose of allowing borrower to trade the property for other machinery or equipment, furniture and fixtures, useful in the operation of borrower's business, provided the newly acquired property is hypothecated to secure the loan subject only to purchase money lien, if any exists.

11. Administer fisheries' loans within the same authority delegated herein with respect to SBA loans.

Administrative. 12. Approve annual and sick leave for employees under his supervision.

B. *Correspondence.* To sign all nonpolicy, routine correspondence relating to the loan administration functions of the regional financial assistance program, except Congressional correspondence and correspondence with borrowers or guarantors containing any threat of legal action.

II. The specific authority delegated herein may not be redelegated, with the exception of IB.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Chief, Loan Administration Section, Financial Assistance Division.

IV. All previous authority delegated to the Chief, Loan Administration Section is hereby rescinded without prejudice to actions taken under all such delegations of authority prior to the date hereof.

Dated: May 25, 1959.

GEORGE H. GAFFNEY,
Chief,
Financial Assistance Division.

[F.R. Doc. 59-5852; Filed, July 15, 1959; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 13, 1959.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 35541: *Scrap iron and steel—Muskegon, Mich., to Buffalo, N.Y.* Filed by O. E. Schultz, Agent (ER No. 2502), for interested rail carriers. Rates on scrap iron or steel (not copper clad), having value for remelting purposes only, carloads from Muskegon, Mich., to Buffalo, N.Y.

Grounds for relief: Competition of carriers via water over the Great Lakes.

Tariff: Supplement 42 to Grand Trunk Western Railroad Company tariff I.C.C. A-100.

FSA No. 35542: *Pipe or tubing—South Pacific coast to Texas points.* Filed by Trans-Continental Freight Bureau, Agent (No. 361), for interested rail carriers. Rates on pipe or tubing, plate or iron or steel, carloads, as described in the application from points in Arizona, California, Nevada, New Mexico, Oregon and Utah to Breckenridge, Tex., and six other points in Texas named in the application.

Grounds for relief: Maintenance of commodity rates through points in intermediate territory to which higher commodity rates are maintained account of abandonment and adoption proceedings involving change in routes.

Tariff: Supplement 14 to Trans-Continental Freight Bureau tariff I.C.C. 1612.

FSA No. 35543: *Iron and steel articles—Bethlehem, Pa., to Sparrows Point, Md.* Filed by O. E. Schultz, Agent (ER No. 2503), for interested rail carriers. Rates on iron and steel articles, manufactured and semi-finished, carloads, in multiple car lots from Bethlehem, Pa., to Sparrows Point, Md.

Grounds for relief: Private motor truck competition.

Tariff: Reading Company tariff I.C.C. 2410.

FSA No. 35544: *Cement from and to points in the West.* Filed by Western Trunk Line Committee, Agent (No. A-2072), for interested rail carriers. Rates on cement, concrete mixture, dry building mortar and related articles, carloads from points in states in western trunk-line and Illinois territories to points in states in western trunk-line and Illinois territories.

Grounds for relief: Short-line distance formulas. Motor truck competition.

Tariffs: Supplement 55 to Western Trunk Line tariff I.C.C. A-4188. Supplement 41 to Western Trunk Line tariff I.C.C. A-4189.

FSA No. 35545: *Cement and related articles in Illinois territory.* Filed by Western Trunk Line Committee, Agent (No. A-2073), for interested rail carriers. Rates on cement, concrete mixture, dry building mortar, and related producing points in Illinois, Iowa, Missouri and Wisconsin to specified points in Illinois, Iowa, Indiana, Kentucky, Missouri, and Wisconsin, in Illinois territory.

Grounds for relief: Short-line distance formulas.

Tariff: Supplement 55 to Western Trunk Line Committee tariff I.C.C. A-4188.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 59-5853; Filed, July 15, 1959; 8:46 a.m.]

[Notice 151]

MOTOR CARRIER TRANSFER PROCEEDINGS

JULY 13, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 62224. By order of July 9, 1959, the Transfer Board approved the transfer to McDermott Bus Corp., of Flushing, N.Y., of Certificate No. MC 115521 Sub 1 issued May 28, 1958, to Star Bus Lines, Inc., of Bellmore, N.Y., authorizing the transportation over irregular routes, of passengers and their baggage, restricted to traffic originating at the point indicated, in seasonal charter operations, during the season extending from the 15th day of May to the 1st day of October, both inclusive, of each year, from New York, N.Y., to points in Connecticut, New Jersey, New York, and Pennsylvania, and return. Sidney J. Leshin, 58 West 40th Street, New York, N.Y., for transferee and Harold J. Cloutman, 124 28th Avenue, Flushing 54, N.Y., for transferor.

No. MC-FC 62231. By order of July 9, 1959, the Transfer Board approved the transfer to Walter Baker Trucking Corp., Brooklyn, N.Y., of Permit No. MC 79013 Sub 3, issued March 27, 1959, to Walter Baker, Walter Stanley Bortko, Executor, doing business as Arrow Transportation Co., Brooklyn, N.Y., authorizing the transportation of: Brick, from Roseton (Orange County), N.Y., to New York, N.Y., points in Nassau, Suffolk, and Westchester Counties, N.Y., and points in Connecticut and New Jersey; and empty pallets and damaged or returned shipments of brick, from the above-specified destination points to Roseton (Orange County), N.Y., limited to a transportation service to be performed under a continuing contract or contracts, with Jova Brick Works, New York, N.Y. Bert Collins, 140 Cedar Street, New York 6, N.Y., for applicants.

No. MC-FC 62302. By order of July 9, 1959, the Transfer Board approved the transfer to Vorden D. Cordell and Pauline Cordell, a partnership, doing business as Cordell Truck Line of Gardner, Kansas, of Certificate No. MC 45934 issued April 23, 1957, to George J. Jensen, doing business as George J. Jensen Truck Line of Gardner, Kansas, authorizing the transportation, over regular routes, of livestock and seed, from Edgerton, Kans., to Kansas City, Mo., serving the intermediate and off-route points within 12 miles of Edgerton, Kans., restricted to pick-up only; and livestock, feed, and fertilizer, from Kansas City, Mo., to Edgerton, Kans., serving the intermediate and off-route points within 12 miles of Edgerton, Kans., restricted to delivery only. Townsend, Jandera & Hope, 641 Harrison Street, Topeka, Kans., for applicants.

No. MC-FC 62317. By order of July 9, 1959, the Transfer Board approved the transfer to Frank Andrew Kahanic and Reeta Eva Kahanic, a partnership, doing business as Kahanic Trucking Co., of Downey, Calif., of Certificate No. MC 96623 issued June 6, 1952, in the name of Earl L. Wilson, William J. Wilson, Gertrude E. Wilson, and Madoline L. Wilson, a partnership, doing business as Pony Express Fast Freight of Huntington Park, Calif., authorzing the transportation of general commodities, excluding household goods, commodities in bulk, and various specified commodities, from points in the Los Angeles, Calif., Commercial Zone, as defined by

the Commission, to the ports of Wilmington and Terminal Island, Calif., restricted to shipments moving to the territories and possessions of the United States. Frank Kahanic, 9329 South Paramount Boulevard, Downey, Calif., for applicants.

No. MC–FC 62324. By order of July 9, 1959, the Transfer Board approved the transfer to Florence Benowitz, doing business as Sam Benowitz Trucking of Lodi, N.J., of Certificates Nos. MC 95990 and MC 95990 Sub 1, issued June 20, 1942 and January 1, 1943, respectively, to Sam Benowitz, doing business as Sam Benowitz Trucking of Lodi, N.J., authorizing the transportation of dresses, over regular routes, between Lodi, N.J., and New York, N.Y.; materials and trimmings for dresses, from New York to Lodi, N.J.; and wearing apparel, and cut or uncut goods, trimmings, buttons, clips, clasps, and other articles, only when such articles are utilized in the manufacture of wearing apparel, being transported or to be transported, over irregular routes, between New York, N.Y., and Passaic and Paterson, N.J. Herman B. J. Weckstein, 1060 Broad Street, Newark 2, N.J., for transferee and Macy Davidson, 140 Park Avenue, E. Rutherford, N.J., for transferor.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59–5854; Filed, July 15, 1959; 8:46 a.m.]

CUMULATIVE CODIFICATION GUIDE—JULY

A numerical list of the parts of the Code of Federal Regulations affected by documents published to date during July. Proposed rules, as opposed to final actions, are identified as such.

3 CFR

	Page
Proclamations:	
3301	5327
3302	5707
Executive orders:	
Feb. 17, 1843	5575
4245	5721

5 CFR

	Page
6	5485, 5561, 5593, 5623
25	5327
325	5357

6 CFR

	Page
10	5329
421	5437
464	5669

7 CFR

	Page
51	5357, 5684
52	5363
301	5561, 5686
330	5363
728	5437, 5710
730	5623
813	5329
845	5363
863	5364
904	5329
909	5626
922	5411, 5593
934	5329
936	5330, 5331, 5461–5465, 5595–5597
953	5413, 5466, 5598
957	5413
958	5711
959	5599
973	5414
990	5331
992	5414
1020	5686
1022	5687
Proposed rules:	
52	5372
53	5478
55	5421
906	5549
925	5372, 5491
933	5391
957	5614
960	5645
961	5479
963	5491
973	5614
975	5645
989	5577
992	5614
993	5509

8 CFR—Continued

	Page
502	5525

9 CFR

	Page
78	5532
Proposed rules:	
131	5615

10 CFR

	Page
Proposed rules:	
20	5551

13 CFR

	Page
121	5628

14 CFR

	Page
4b	5629, 5688
10	5629, 5688
20	5485, 5634
40	5629, 5687, 5688
41	5415, 5629, 5687, 5688
42	5629, 5687, 5688
43	5629, 5687, 5688
60	5687, 5688
221	5564
235	5600
241	5603
507	5415, 5534, 5634
514	5534, 5635
600	5336
601	5336
602	5336
609	5337, 5341, 5467
1221	5688
Proposed rules:	
40	5424
41	5424
42	5424
43	5613
241	5509
242	5510
507	5659
600	5723
601	5723

15 CFR

	Page
230	5332
371	5535
373	5535
379	5535
381	5535
382	5535
385	5535

16 CFR

	Page
13	5365, 5366, 5416, 5417, 5467, 5487, 5488, 5537, 5538, 5565, 5566, 5603, 5604

17 CFR

	Page
250	5489

19 CFR

	Page
1	5366
2	5366
17	5489
31	5367

21 CFR

	Page
1	5367
9	5707
146a	5538
Proposed rules:	
46	5391
53	5511
120	5345, 5423, 5550
130	5391

24 CFR

	Page
221	5636

25 CFR

	Page
46	5566
221	5367, 5539

26 (1954) CFR

	Page
1	5368
195	5709
240	5539, 5689
253	5636

29 CFR

	Page
681	5466

31 CFR

	Page
100	5489
270	5605

32 CFR

	Page
590	5711
591	5711
592	5711
596	5711
597	5711
598	5711
605	5711
606	5711
836	5568
875	5333
1001	5671
1452	5490
1453	5490

33 CFR

	Page
60	5605
62	5605
64	5607
66	5607
68	5607